2004 Annual Report of the

# Office of the Provincial Auditor of Ontario

to the Legislative Assembly

105-02038/

To the Honourable Speaker of the Legislative Assembly

In my capacity to act in the place of the Provincial Auditor, I am pleased to transmit the Annual Report of the Office of the Provincial Auditor of Ontario for submission to the Assembly in accordance with the provisions of section 12 of the *Audit Act*.

Jim McCarter, CA
Assistant Provincial Auditor

Fall 2004

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Imprimeur de la Reine pour l'Ontario

ISSN 0843-4050

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## CHAPTER ONE

# Overview and Value-for-money Audit Summaries

## OVERVIEW

### *GOOD DECISIONS REQUIRE GOOD INFORMATION*

This is my second report to the Legislative Assembly as the Acting Provincial Auditor. Based on the findings in these two reports as well as those in the reports from the three previous years, when I was Assistant Provincial Auditor, one thing has become increasingly clear to me: you can't effectively manage what you can't measure. That is, unless legislators, Ministers, and senior public servants and their staff have relevant, accurate, complete, and timely information, they can't make the right decisions to ensure that the public is getting the best service possible, delivered in the most cost-effective manner.

Making the best decision depends on having the right information at the right time. For far too many programs—programs that account for billions of dollars in annual expenditures—decision-makers often do not have this information. Specifically, our audit work has revealed that information on what services are being delivered and to whom, at what cost, and with what results is frequently not available. While right decisions may still be made based on experienced judgment, the risk of making wrong choices is significantly increased when good information is lacking.

One area in particular where the importance of good information must not be overlooked is the services being delivered through the broader public sector. Over 50% of the government's annual expenditures are spent by organizations in this sector, such as hospitals, school boards, universities, and thousands of other community-based organizations. Ensuring that maximum value is being received for the services being funded and delivered by these parties requires effective oversight and accountability arrangements, which in turn depend fundamentally on good information.

## Lack of Good Information Noted This Year

Many of the management information systems supporting the program areas that we audited this year could not provide the information that management and program staff needed. For instance:

- The Ministry of Community and Social Services had a new information technology system that supports both the Ontario Disability Support Program, which we audited, and Ontario Works. As well as lacking key internal controls, the system did not meet the information needs of its users and continued to generate errors and omit information, often for reasons that could not be explained.
- The Ministry of the Environment is responsible for protecting and managing the sustainability of the province's groundwater resources. However, the Ministry does not have adequate information on the depth and boundaries of Ontario's groundwater aquifers, nor on the extent to which contaminants and other threats are affecting the sustainability of groundwater resources.
- The Ministry of Finance received approximately $1 billion in land transfer taxes. Teranet, a private-sector company, collects 77% of these taxes. At the time of our audit, the Ministry had neither sufficient access to Teranet data nor adequate information of its own to ensure all taxes owing were being collected and all taxes collected were being remitted to the Ministry.
- The Ministry of Health and Long-Term Care gave $1.6 billion in grants to community-based organizations to provide health care, homemaking, and other support services to people—primarily seniors—to enable them to continue to live in their own homes. The information needed to effectively monitor and manage these services was not yet available, even though the development of an information system to provide client service and cost data had been identified as a high priority in 1998.
- The Ministry of Health and Long-Term Care provided almost $275 million to independent health facilities across the province to perform various health-related diagnostic, therapeutic, and surgical services. However, the Ministry did not have adequate information to assess the reasonableness of facility fees, determine service demand, and compile waiting lists for services.
- The Ministry of Labour is responsible for enforcing employment rights, including those relating to hours of work and overtime, minimum wages, pregnancy and parental leave, statutory holidays, and vacation pay. When we last audited employee rights in 1991, we indicated that improvements in information technology were needed to support enforcement officers and to provide better service to the public. In our current audit, we found that the information enforcement officers needed was still not easily accessible because the Ministry relied on a mix of paper and computer systems that were not integrated.

- Management Board Secretariat (MBS) is responsible for selecting and monitoring the government's travel service providers—the corporate-travel charge card provider and the corporate travel agency—to ensure that travel costs are managed cost-effectively. However, we found that MBS was not obtaining all the information needed to assist it in managing these expenditures on a government-wide basis.
- The Ministry of Transportation is required by legislation to inspect all provincially owned bridges in Ontario every two years, and it engages private-sector contractors for almost all highway maintenance work across the province. The Ministry's various information systems did not allow the Ministry to ensure that all bridges were being inspected as required and that inspections of the work of maintenance contractors were adequate. Information about the Ministry's effectiveness in maintaining the province's highways was also lacking, although efforts to improve such information systems were underway.

## RECURRING CONCERNS AND PROGRESS MADE SINCE PREVIOUS AUDITS

In last year's Annual Report I expressed the concern that many problems noted during past audits had not been rectified and were being noted once again. In this year's audits, we again noted that, at a number of ministries, concerns raised in prior audits had not yet been satisfactorily addressed:

- *Ministry of the Environment*: In our 1996 audit, we indicated that many air pollution standards required substantial revision. This problem continues to exist, as does the issue of outdated certificates of approval that allow contaminants to be discharged into the air at levels that may exceed current pollution limits. In addition, while the Ministry had recognized the need for a groundwater management strategy in 1996, minimal progress on the strategy had been made when we conducted this year's audit.
- *Ministry of Health and Long-Term Care:* A number of our recommendations in this year's audit of community-based support service agencies mirrored recommendations made in our 1998 audit, such as the need for service-level standards, a standard assessment tool to encourage consistent levels of service across the province, and a mechanism to allocate funds based on needs.
- *Ministry of Labour*: Many of the concerns identified in our 1991 audit of the enforcement procedures designed to protect workers' employment rights and responsibilities remained. For instance, few proactive inspections were being conducted, inspections were seldom extended to determine whether violations detected had occurred for other employees with the same employer, and prosecutions were not being used as a deterrent.

- *Ministry of Transportation*: Our 1999 audit of the Ministry's procedures for outsourcing highway maintenance activities concluded that these procedures were not sufficient. On this year's audit, we concluded that systems and procedures were still not adequate to ensure the province's highway assets were being maintained cost effectively.

On the other hand, I am pleased to report that we found good progress had been made at several ministries in addressing concerns raised by us in previous years. For example:

- *Office of the Public Guardian and Trustee*: Although we had concerns with respect to the management of investments of $1 billion in client assets, we observed that a number of improvements to client services had been made since our last audit.
- *Ministry of Health and Long-Term Care*: For the most part, since our last audit of independent health facilities, the Ministry had established adequate procedures to monitor compliance with legislation and the licensing and funding of diagnostic, surgical, and therapeutic facilities.
- *Ministry of Labour*: While we raised concerns this year similar to those from our last audit of employment rights enforcement, we concluded in our audit of occupational health and safety that the Ministry's systems and procedures for reducing workplace injuries and illnesses had improved since our last audit.
- *Ministry of Transportation*: Although we continued to have concerns with respect to the oversight of contractors, we noted that the Ministry had improved its procedures to ensure that contractors bidding on routine maintenance and minor capital projects were qualified and that services were being acquired competitively.

As well, our first-time audits of some programs revealed that sound management practices were being applied. For instance, although we had not previously audited the government's purchasing card program nor recently done an extensive audit of travel expenditures, our work in these areas indicated that the vast majority of transactions complied with the requirements of directives and guidelines. In addition, our audit of a relatively new program—Media Tax Credits—indicated that a number of constructive steps had been taken in the last few years to mitigate the risk of tax credits being inappropriately paid out due to fraud or abuse.

## *AMENDMENTS TO THE* AUDIT ACT

As further discussed in Chapter Two of this report, we are very encouraged by the tabling of Bill 18, entitled An Act respecting the Provincial Auditor, on December 9, 2003. For years we have been seeking amendments to the *Audit Act* that we believe would allow us to better serve our client—the Legislative Assembly.

The most significant amendment sought is the expansion of our value-for-money audit mandate to include the broader public sector—that is, organizations receiving substantial government funding, such as school boards, universities, colleges, hospitals, children's aid societies, and thousands of other smaller organizations. With over 50% of provincial expenditures going to these organizations, we believe that without an expanded mandate, our ability to assist the Legislature in ensuring that value for money is being received for all government expenditures is severely hindered.

As the Minister of Finance stated when Bill 18 was tabled, the amendments "will allow the public watchdog to shine a light on more of those organizations that spend taxpayer dollars as a key means of ensuring that Ontarians are getting value for the money they invest in their public services."

We are hopeful that this bill will receive the support of all three political parties in the Legislative Assembly.

## *THE PROVINCE'S FINANCIAL STATEMENTS*

### Auditor's Report

I am pleased to report that my Auditor's Report on the province's financial statements is clear of any qualifications or reservations. Furthermore, the financial statements are in compliance with the accounting principles recommended for governments by the Canadian Institute of Chartered Accountants.

Chapter Five of this report discusses in some detail a number of issues relating to this year's audit of the province's financial statements, which form part of the Public Accounts of the province. Also discussed are several related issues affecting future years, such as the inclusion of the assets, liabilities, revenues, and expenditures of school boards, colleges, and hospitals in the province's financial statements starting in the 2005/06 fiscal year.

# VALUE-FOR-MONEY AUDIT SUMMARIES

The following are summaries of the 14 value-for-money audits reported on in Chapter Three of this Annual Report. For all audits reported on in Chapter Three we made a number of recommendations for improvement and received commitments from the relevant ministries that they would take action to address our concerns.

## 3.01 Attorney General
## *Office of the Public Guardian and Trustee*

The Office of the Public Guardian and Trustee's (Office) primary responsibilities include: acting as the guardian of property and/or personal care for mentally incompetent individuals and administering the estates of persons who die in Ontario without a will and without known relatives. The Office also has a general supervisory role over charities and charitable properties to protect the public's interest. As well, since 1997, its duties have expanded to include those of the Accountant of the Superior Court of Justice, which is the depository for all monies, mortgages, and securities paid into, or lodged with, the court.

For the 2003/04 fiscal year, the Office had approximately 300 staff and operating expenditures of $27 million. During the same period, it was responsible for the investment and management of approximately $1 billion in assets as trustee for its incapable clients and other clients from various programs.

We concluded that while certain improvements were still required, the systems and procedures in place for fulfilling the Office's mandate of providing services to incapable clients had generally improved since our last audit in 1999. However, our audit identified the following concerns with respect to the management of the $1 billion in assets entrusted to the Office for investment under its various programs:

- In selecting fund managers, the Office selected one candidate as its top choice to manage both diversified and Canadian money market funds—of $50 million and $300 million, respectively—despite the fact that this candidate had consistently underperformed when compared to most of the other candidates and to market benchmarks for the 10-year period preceding the candidate's selection. We were also concerned that, after being awarded the contract for the Canadian money market fund, the successful candidate was granted substantially higher management fees than the fees in its original quote, even though this candidate had been awarded the contract primarily because of its low fee quote.
- The Office did not adequately take into account the health and age of incapable and minor clients before investing a significant portion of the clients' funds in higher-risk stock markets through its diversified equities fund.
- Insufficient attention was paid to ensuring appropriate diversity of client investment portfolios. This resulted in some clients incurring significant losses. For instance, 80% of one elderly client's assets were in a single stock whose value subsequently decreased significantly; this resulted in a decline in the value of the client's portfolio of more than 80% over a three-and-a-half-year period.

## 3.02 Centre for Leadership and Human Resource Management Human Resource Renewal

Over the past decade, a number of government restructuring and service realignment initiatives have reduced the size of the Ontario Public Service (OPS) by over 20%. As at March 31, 2003, the OPS had about 63,600 full-time equivalent employees who delivered public services through thirty government ministries and offices. Wages and benefits relating to these employees for the 2003/04 fiscal year amounted to almost $4.4 billion.

In 1999, Management Board Secretariat, which at the time of our audit was responsible for human resource management in the OPS, developed an HR Strategy to reaffirm the value of public service, build on its strengths, and ensure future workforce capacity. We reviewed the progress made since that time and found that the government has not sufficiently implemented the necessary renewal and revitalization strategies to address the issues identified in its HR Strategy. Downsizing, hiring restrictions, and weak efforts to promote the OPS as an employer of choice have resulted in a workforce considerably older than that found in other Ontario workplaces. Our major concerns included:

- Other than an internship program aimed at recruiting university and college graduates, there was no initiative in place to address specific skills shortages. There was also little assurance that current employees were receiving the training and development they needed.
- The average age of public-service employees has continued to rise. While 41% of staff in the senior management group will be entitled to retire within the next 10 years, only one-third of the ministries had reported completing a succession planning process. We also noted that 249 retirees, representing 18% of total 2002/03 retirements, were rehired back into the OPS in 2002/03.
- In 2002/03, 89% of new staff were hired into unclassified (contract or temporary) positions rather than classified (permanent) positions. Unclassified staff, who are more difficult to retain, now comprise almost 17.7% of the OPS workforce, almost double the rate of a decade ago.
- The HR strategic planning and reporting process was weakened by a lack of ministry accountability, the absence of benchmarks for assessing progress on outcomes and related performance measures, and a lack of consolidated reporting.
- The amount of paid overtime worked by government employees has more than doubled over the last five years. As well, an estimated 12 days annually per employee were lost last year due to absenteeism, and a government program directed at working with employees with significant absences could be improved.

## 3.03 Ministry of Community and Social Services Ontario Disability Support Program

The Ministry of Community and Social Services provides financial assistance to people with eligible disabilities and to people aged 65 years and over who are not eligible for federal Old Age Security. Ontario Disability Support Program (ODSP) financial assistance is intended to provide for basic living expenses such as food, shelter, clothing, and personal-needs items.

To be eligible for ODSP financial assistance:

- all applicants must demonstrate a financial need for assistance by providing evidence that their liquid assets and income levels do not exceed specified amounts; and
- most applicants must also be assessed to determine if their disability meets the eligibility threshold established by the Ministry.

For the 2003/04 fiscal year, the Ministry's ODSP expenditures totalled approximately $2.5 billion, of which approximately $176 million represented administration costs.

We concluded that, although ODSP management has instituted some improvements to the program since its inception, the Ministry's procedures were still not adequate to ensure that only eligible individuals receive disability support payments in the amounts they are entitled to. Some of our more significant observations were that the Ministry:

- did not complete the initial disability assessment for many applicants on a timely basis, which often adversely affected the benefits the applicants received;
- did not formally investigate why the Social Benefits Tribunal overturned about 80% of the appeals of initial ministry eligibility decisions that it heard;
- for three-quarters of the files we reviewed, did not adequately document recipients' financial eligibility for the benefits they received;
- did not have adequate procedures in place to collect over $480 million in outstanding benefit overpayments; and
- in many cases, did not follow up on important new information that could have affected a recipient's eligibility for benefits.

We also noted that the Ministry's new Service Delivery Model information system, which was developed in partnership with Accenture, continued to lack key internal controls, still did not meet certain key information needs, and continued to generate errors and omit information for reasons that could not be explained.

## 3.04 Ministry of the Environment Air Quality Program

The Ministry of the Environment's mandate in respect of cleaner air is to protect, restore, and enhance the environment to ensure public health, environmental protection, and economic vitality. The Ontario Medical Association estimated that air pollution in the year 2000 could lead to 1,900 premature deaths and 9,800 hospitalizations and that the annual cost of air pollution to Ontario, in terms of health care and lost productivity, is $10 billion. In the 2002/03 fiscal year, the Ministry spent approximately $28 million for programs and activities that relate directly to air quality.

Since our audit of the Ministry's Environmental Sciences and Standards Division in 1996, the Ministry has implemented several key regulatory and operational initiatives directed at reducing air contaminants. Notwithstanding those initiatives, we found that further action needs to be taken because, according to ministry projections, over the next 10 years, the province will not be able to meet its national and international commitments to achieve cleaner air in Ontario. Some of our more significant observations include the following:

- Since our 1996 audit of the Ministry's Environmental Standards and Sciences Division, standards for air pollutants have been developed, updated, or reaffirmed for only 18 of 76 air pollutants that have been categorized as high priority for air standards development.
- Since there are no periodic renewal requirements for Certificates of Approval issued to companies specifying maximum limits for discharging contaminants into the air, many certificates reflect outdated pollution limits in effect at the time the certificate was originally issued.
- The Medical Officer of Health for Toronto reported that the Ministry's Air Quality Index misrepresents the health risks associated with air pollution in that it does not consider the combined effects of all measured pollutants and estimated that 92% of the premature deaths and hospitalizations that are attributable to air pollution occur when air quality is classified as good or very good.
- For the Drive Clean program, we identified 3,200 uniquely numbered emissions certificates that were presented for licence plate renewal more than five times each. One uniquely numbered certificate had been presented more than 400 times for different vehicles. Such duplicate certificates were accepted for licence plate renewals. These obvious improprieties undermine this program's integrity.
- The Ministry's SWAT inspection activities have been successful in identifying numerous non-compliant facilities. However, the Ministry's follow-up procedures to ensure that identified problems are corrected require improvement.

## 3.05 Ministry of the Environment Groundwater Program

The Ministry of the Environment's specific responsibilities relating to groundwater are to manage and protect the resource as well as to promote the sustainable use of groundwater. The Ministry is also responsible for acting on the recommendations made by Justice O'Connor from the Walkerton Inquiry. This inquiry reported in 2002 and was prompted by the deaths and illnesses that resulted in May 2000 from the town of Walkerton's contaminated water supply. The Ministry estimated that, for the 2003/04 fiscal year, it spent approximately $18 million on groundwater-related activities.

While some information had been accumulated, the Ministry lacked an overall understanding of the state of groundwater resources in the province. As a result, the Ministry could not determine its success in achieving the protection and long-term sustainability of Ontario's groundwater resources. Overall, the Ministry did not have adequate procedures in place to restore, protect, and enhance groundwater resources. Some of our more significant observations were as follows:

- While the Ministry has been carrying out watershed studies since the 1940s, it did not yet have watershed management plans to ensure groundwater resources are protected. The Ministry estimated that its latest attempt to have conservation authorities develop watershed-based source protection plans will result in six of 36 plans being put in place by the 2007/08 fiscal year.
- In May 2000, rains washed animal waste from a nearby farm into a municipal drinking-water well in Walkerton, claiming seven lives and causing thousands of water-related illnesses. The farmers of Ontario's 1,200 largest farms are now required to have plans in place for dealing with agricultural waste by July 1, 2005. For an additional 28,500 farms that produce enough waste to pose a potential problem, a process is to be developed by 2008 to phase in nutrient management planning.
- The Ministry has issued over 2,800 permits to take water for a total potential withdrawal of 9 billion litres of groundwater a day. The Ministry's assessment and evaluation of applications for groundwater-taking permits were inadequate. In addition, the Ministry did not have sufficient information to evaluate the cumulative impact of water takings on the sustainability of groundwater.

## 3.06 Ministry of Finance Land Transfer Tax

The *Land Transfer Tax Act* requires that purchasers pay a tax when an interest in ownership of land is transferred in Ontario. The tax is based on the taxable "value of consideration"—usually the amount paid by the purchaser and declared in a Land Transfer Tax Affidavit prepared by the purchaser's lawyer. Currently, up to the first $2,000 in land transfer tax may be waived or refunded for first-time homebuyers of newly constructed homes who meet prescribed conditions.

For the 2003/04 fiscal year, approximately 470,000 transfers in interest in land were reported to the Municipal Property Assessment Corporation for property assessment purposes. Over the past three years, total land transfer taxes collected have increased substantially from $600 million in the 2000/01 fiscal year to $1 billion in 2003/04.

Given that 97% of land transfer tax is not collected directly by the Ministry of Finance but rather by Teranet—a private-sector company—and land registry offices (LROs) that are operated by another ministry, the Ministry of Finance must rely heavily on others to ensure it collects all land transfer tax owing. Such reliance is warranted only if the Ministry has adequate oversight and audit processes in place, particularly in the case of Teranet. However, we concluded that these processes required significant strengthening because:

- While some progress had been made, the Ministry had not yet established adequate procedures to effectively oversee the collection and submission of land transfer taxes by Teranet. In that regard, internal auditors from both the Ministry of Finance and the Ministry of Consumer and Business Services also expressed the opinion that there was a financial risk unless full access to Teranet data was obtained.
- LROs were not required to receive all the information from taxpayers that they would need to ensure that the appropriate amount of tax, based on the taxable value of consideration, was remitted.
- The Ministry did not ensure the LROs were referring higher-risk transactions to the Ministry for potential review and audit follow-up, as required.
- The focus of the Ministry's audit activity has increasingly been on lower-risk transactions. This is likely one of the reasons why the dollar value of audit assessments has declined by 75% over the past few years.

## 3.07 Ministry of Health and Long-Term Care Community-based Services

The Ministry of Health and Long-Term Care (Ministry) provides transfer payments to 42 Community Care Access Centres (CCACs) and to approximately 850 community support service (CSS) agencies that provide professional, homemaking, and personal support services at home for people who would otherwise need to go to, or stay longer in, hospitals or long-term-care facilities, and to assist frail elderly people and people with disabilities to live as independently as possible in their own homes. In the 2003/04 fiscal year, the Ministry provided approximately $1.6 billion in funding.

While the Ministry was in the process of implementing a number of initiatives to better ensure that CCACs and CSS agencies were meeting the Ministry's expectations in a cost-effective manner, we noted a number of concerns that mirrored concerns we had previously raised in our *1998 Annual Report*. These include the need for a funding formula that more fully allocates funds based on assessed needs, measures to demonstrate clients are in fact receiving quality care, and an information system to collect client-level service and costing data. In particular, we found that:

- The formula used by the Ministry to determine the level of funding to be provided to CCACs and CSS agencies still does not assess the need for services or ensure equitable province-wide access to services.
- From 2001/02 to 2002/03, when funding provided to CCACs was frozen at 2000/01 levels, the number of nursing visits decreased by 22% and the number of homemaking hours decreased by 30%. The Ministry had not assessed the impact of such a significant decrease on recipients or on other parts of the health care system.
- The Ministry had not yet developed service standards to determine whether community-based services were being provided at expected levels and in a consistent, equitable, and cost-effective manner across the province.
- The Ministry needed to expand its efforts to assess the quality of the care being provided to service recipients and to determine whether legislation and ministry standards were being complied with.
- The Ministry acknowledged in 1998 that the development of a new information system was a high priority. While progress had been made, the information needed to effectively monitor and manage community-based services was not yet available.

## 3.08 Ministry of Health and Long-Term Care Independent Health Facilities

The Ministry of Health and Long-Term Care licenses and regulates approximately 1,000 independent health facilities (facilities) in Ontario. Most facilities are "diagnostic," meaning that they perform services—such as x-rays, ultrasounds, nuclear medicine, pulmonary function studies, and sleep studies—that can be helpful in diagnosing various medical conditions. At the time of our audit there were also 24 facilities that provided surgical and therapeutic services, such as dialysis, abortions, and cataract, vascular, and plastic surgeries.

The technical fees, also known as "facility fees," paid to facilities cover the costs of providing services, such as the cost of medical equipment and administrative and occupancy costs. For the 2003/04 fiscal year, technical fee payments to diagnostic facilities totalled approximately $257 million and fees paid to facilities providing surgical and therapeutic services totalled approximately $16 million.

We concluded that, for the most part, the Ministry had adequate procedures in place to ensure compliance with applicable legislation and policies for the licensing, funding, and monitoring of facilities. However, for the program to cost-effectively fulfill its mandate, action was still required to address the following issues, a number of which we had identified in our last audit in 1996:

- The Ministry had still not assessed the relationship between the volume of services provided by individual facilities and the cost of providing such services to determine whether the facility fees paid to independent health facilities were reasonable.
- The Ministry had not determined the levels of service that would be required and should be available to meet needs.
- The Ministry had not adequately analyzed the impact nor developed strategies to address the significant regional variations in service levels.
- Although funding to develop a waiting list management system commenced in 2000, the program still did not have waiting list information for diagnostic or surgical/therapeutic services.
- The Ministry did not have a process for determining which services should be provided by independent health facilities rather than by hospitals.
- The Ministry had not yet implemented a process to determine which other services provided outside of hospitals and licensed independent health facilities, such as echocardiograms, should be covered by the *Independent Health Facilities Act* to ensure that these services are subject to an appropriate quality assurance process.

## 3.09 Ministry of Labour
## Employment Rights and Responsibilities Program

The *Employment Standards Act, 2000* sets out employment rights and standards covering a wide range of areas, including minimum wage, working conditions, hours of work and overtime, pregnancy and parental leave, public holidays, vacation pay, termination notices, and severance pay. The Act is enforced by the Ministry's Employment Rights and Responsibilities Program (Program).

During the 2003/04 fiscal year, the Ministry investigated over 15,000 complaints from employees and carried out approximately 150 proactive inspections of payroll records and workplace practices. For the 2003/04 fiscal year, the Ministry's expenditures for the Program totalled approximately $22.4 million, of which about 75% was spent on salaries and benefits for about 220 staff members.

We noted that the Ministry was focusing its efforts almost entirely on investigating complaints from individuals against their former employers. As a result, the Ministry's inspection activities relating to protecting the rights of currently employed workers were inadequate. Many of the concerns identified during this audit were also reported on in our 1991 audit of the then-Employment Standards Program. Our specific concerns included the following:

- Despite finding violations in 70% of complaints investigated, the Ministry did not generally extend those investigations to determine whether similar violations had occurred in cases of other employees of the same employer. Given that 90% of employees who filed claims did so only after leaving their place of employment, expanding the scope of investigations to cover workers currently employed by the same employer could help ensure that the rights of these workers are being protected.
- Efforts to resolve complaints have left officers little time for proactive inspections of employers. The need for such inspections is evidenced by the fact that, in past proactive inspections, violations were uncovered in 40% to 90% of cases, depending on the business sector being inspected.
- The Ministry seldom initiated prosecutions or issued fines. We found instances where employers were neither fined nor required to pay administrative fees even when their violations involved large amounts owed to employees. Such a lack of punitive action—whether consisting of a fine or prosecution—could encourage some employers to ignore their legal obligations to employees.
- We found weaknesses in the Ministry's efforts to collect the amounts that employers owed to employee claimants. The Ministry had forecasted a success rate of 35% for collection agencies contracted to collect the defaulted amounts, but the actual collection rate achieved was much lower, at about 15%.

## 3.10 Ministry of Labour Occupational Health and Safety Program

The Ministry's Occupational Health and Safety Program (Program) sets, communicates, and enforces laws to reduce or eliminate workplace fatality, injury, and illness. The *Occupational Health and Safety Act* and related regulations set out the rights and duties of all parties in the workplace and provides for enforcement of the law where compliance has not been voluntarily achieved. The Ministry estimated that about 300,000 workplaces and 4.6 million workers were covered by the Act.

In the 2003/04 fiscal year, expenditures for the Program totalled approximately $52 million, of which 75% was for salaries and benefits. The Ministry has a Memorandum of Understanding with the Workplace Safety and Insurance Board (WSIB) that calls for the WSIB to assume the costs associated with administering the Act. For the 2003/04 fiscal year, the amount reimbursed by WSIB totalled approximately $43 million.

We concluded that the Ministry's systems and procedures for enforcing occupational health and safety legislation had improved in some areas since our last audit in 1996. However, we identified a number of areas where improvements were required for the Ministry to be fully effective in fulfilling its key mandate of reducing workplace injuries and illnesses. For instance:

- The Ministry's inventory of workplaces that are potential candidates for inspection was incomplete. For example, in December 2003 a 45-day inspection blitz of construction projects in the greater Toronto area identified more than 90 large projects that did not show up on the Ministry's database of inspection candidates.
- The number of compliance orders that inspectors issued for contraventions observed during an inspection ranged from fewer than 100 to more than 500 per inspector per year. The Ministry had not investigated the reasons for such large variances to ensure that inspections and the issuing of orders were being done consistently throughout the province.
- Although the Ministry's information system indicated that corrective action had been taken for more than 90% of safety contravention orders issued, we found that 30% of the related files had no evidence of remedial action being taken or of any reinspection being conducted.
- We noted many cases where prosecutions were not used to deter repeat violators or those with serious safety violations. In this regard, using a zero-tolerance approach that required inspectors to prosecute employers for high-risk safety violations, inspectors issued nearly 50% more tickets and summonses during a 45-day blitz of construction projects in the greater Toronto area than they had issued during the entire previous year for all construction projects across Ontario.

## 3.11 Management Board Secretariat Purchasing Cards

The government of Ontario first implemented purchasing cards (PCards) for its employees in 1996 to reduce the administrative cost of acquiring and paying for low-dollar-value purchases of goods and services. The PCard (which is a MasterCard) is not to be used for travel and travel-related expenses, payment of salary and wages, or personal purposes. Management Board of Cabinet's Procurement Directive for Goods and Services sets out the operating procedures for using PCards. While each PCard is issued in the name of an employee, the government is liable for all PCard expenditures. During the 2003/04 fiscal year, an average of 14,600 PCards were held by government employees and approximately 720,000 transactions, totalling $144 million, were processed. The four ministries we audited accounted for about 60% of this amount.

We found that the vast majority of PCard transactions we audited were in compliance with relevant government directives, policies, and procedures. Nevertheless, we did note a number of exceptions at each of the ministries we audited, including numerous instances where supporting documents for expenditures were either lacking or were inadequate. We believe that many of the exceptions we found could have been prevented or appropriately addressed if there had been adequate managerial review and approval of the monthly PCard billing statements. Without this key control, a significant risk exists that any inappropriate PCard transactions would not be detected.

The exceptions noted during our audit include the following:

- Monthly statements were not always being reconciled with supporting receipts in a timely manner, resulting in instances where the government was not able to recover payments for purchases that were improperly charged to a card.
- A number of purchases lacked supporting receipts, making it impossible to determine what was purchased and whether the purchases were made for government purposes.
- Some purchases were supported only by faxed or photocopied receipts, increasing the risk of alterations and duplicate payments being made.
- Supporting receipts for some purchases would have raised questions if they had been properly reviewed by supervisors or managers. For example, we noted numerous purchases of a personal nature and travel-related expenditures.
- Some purchases that exceeded the maximum permitted dollar limit for a transaction were split into two or more transactions.

With respect to the selection of the current PCard provider, we found that MBS followed a fair, transparent, and competitive process.

## 3.12 Management Board Secretariat Travel and Other Related Expenditures

Management Board Secretariat (MBS) is responsible for developing corporate policies on travel and other related expenditures. It is also responsible for negotiating and managing corporate contracts for travel agency and charge card services, as well as providing assistance to ministries in developing and administering employee expense procedures and practices. Information provided by ministries indicates that for the 2002/03 fiscal year, the government processed about 400,000 travel and other related claims and directly billed invoices and expended about $117 million on travel and other related expenditures. The four ministries we audited accounted for over 50% of this amount.

We found that the vast majority of travel and other related transactions audited were in accordance with established policies and procedures. However, we did note a number of exceptions in all the ministries we audited, including numerous instances where claims submitted by employees were approved and paid even though these claims had either no support or inadequate support. For instance, a number of examples of excessive expenditures were claimed and paid for, often with little or no support. We found instances of extravagant meals and luxury car rentals and accommodations. As a result, we concluded that there is a need for more diligent and consistent processes for verifying and approving claims: otherwise, any transgressions in claims submitted by employees would likely not be detected.

We also noted instances where employees used the government corporate-travel charge card for expenses not related to government business travel and used their personal charge card for business expenses. These practices are discouraged in the government's travel management and general expenses policies as they increase the risk of delinquency and make it difficult to track government travel and other related expenditures. As well, minimal action was taken to identify and address cardholders who used their travel card for personal expenses or who were seriously delinquent with their travel card payments.

Finally, we also noted that MBS did not obtain all information needed from travel service providers—such as the corporate-travel charge card provider and the corporate travel agency—to assist it in better managing travel and other related expenditures government-wide. In addition, the terms for earning rebates from the corporate-travel charge card provider were not realistically achievable.

## 3.13 Ontario Media Development Corporation and Ministries of Culture and Finance Media Tax Credits

The province of Ontario offers six different types of Media Tax Credits covering film and television, sound recording, book publishing, computer animation and special effects, and interactive digital media. The six tax credits are "refundable credits," which means they are used by qualifying corporations to reduce the amount of any Ontario taxes payable, with any remaining balance paid to the taxpayer. The Ontario Media Development Corporation (OMDC), the Ministry of Finance, and the Ministry of Culture share the administrative responsibilities for the Media Tax Credits. Since the introduction of the first credit in 1996, over $372 million in credits have been issued to qualifying corporations for eligible expenditures. While the six media tax credits were each designed to meet different policy objectives, they share general objectives that are economically and culturally based.

We concluded that a number of constructive steps had been taken in recent years to mitigate the potential risk of Media Tax Credits being incorrectly determined as a result of fraud or abuse. However, we noted that improvements could be made in the timeliness of processing the Media Tax Credits and in measuring and reporting on their effectiveness in achieving their economic and cultural objectives. More specifically we observed the following:

- Due to an increasing volume of applications, limited staff resources, and incomplete applications, about one-quarter of the eligibility applications we reviewed were approved by OMDC more than 12 months after receipt. The delays of OMDC in determining eligibility were compounded by processing delays at the Ministry of Finance. In some cases companies waited more than a year after filing their tax return to get their full refund.
- While the three parties responsible for the Media Tax Credits had developed some general high-level performance measures, the establishment of more specific indicators of economic and cultural performance would better measure the effectiveness of the Media Tax Credits in achieving their objectives. Also, each party's responsibilities with respect to performance measurement needed to be more clearly defined.

## 3.14 Ministry of Transportation Maintenance of the Provincial Highway System

*The Ministry of Transportation is responsible for maintaining the province's* highways and bridges, which the Ministry estimates have a current value of approximately $39 billion. In the 2003/04 fiscal year, the Ministry spent $241 million on routine maintenance, such as snow removal and de-icing, and $62 million on minor capital projects, such as filling and sealing pavement cracks. Most highway system maintenance activities are performed by private-sector contractors hired by the Ministry.

We found that while the Ministry's systems and procedures ensured that contractors bidding on routine maintenance and minor capital projects were qualified and that the services were acquired competitively, they were not sufficient to ensure that the province's highway assets were being maintained cost effectively. In particular, we noted that the Ministry's systems and procedures:

- did not ensure effective oversight and evaluation of the performance of contractors engaged to maintain provincial highways and that appropriate corrective action was taken when required;
- did not adequately prioritize the Ministry's capital projects to ensure that those with the highest benefit-cost ratio were performed first; in addition, although the Ministry was aware that the long-term financial impact of deferring preventive and preservation maintenance projects could be significant, only about half of prevention and preservation projects that ministry engineers had identified for immediate attention were able to be done each year;
- did not adequately ensure that all bridges, both provincially and municipally owned, were inspected at least once every two years as legislation requires; and
- were not sufficient to measure and report on the Ministry's performance in managing the province's highway assets efficiently and effectively—although we noted that the Ministry expected to complete, by 2007, the implementation of an Asset Management Business Framework that will address most of the gaps in performance information and measurement.

We also noted that ministry measures of bridge and pavement condition indicated that about 32% of provincial bridges and about 45% of highway pavements would require major rehabilitation or replacement within the next five years. Historical funding levels for rehabilitation and reconstruction—averaging about $445 million per year over the last five years—will not be sufficient to address these needs.

In a recent report on the management of major highway construction projects, the Ministry's Internal Audit Services Branch made a number of significant observations on the Ministry's processes for controlling the quality and cost of construction work.

## CHAPTER TWO

# Towards Better Accountability

Chapter Two of our Annual Report has traditionally been used to address issues of accountability in government. This year, the chapter focuses primarily on proposed legislation that the government has introduced and that if passed, will strengthen the Office's ability to better serve the Legislative Assembly. The chapter also highlights some recent government initiatives that help address recommendations we have made in previous years to improve public accountability in government and across the broader public sector.

## PROPOSED AMENDMENTS TO THE *AUDIT ACT*

Amendments to the *Audit Act* were last made in 1978. The most significant amendment forming part of the 1978 *Audit Act* revision was the introduction of value-for-money auditing, whereby the Provincial Auditor was provided with the authority to report on the economy and efficiency of government programs and on procedures undertaken by ministries to measure the effectiveness of their programs.

Since 1978, we have been steadily increasing our value-for-money activities, largely because of the interest the Standing Committee on Public Accounts has shown in those activities by focusing its hearings on them. Currently, about two-thirds of our audit resources are directed to value-for-money audit activity.

While the 1978 amendments gave us the authority to conduct value-for-money work in ministries and Crown agencies, it did not extend this mandate to organizations receiving government grants, such as hospitals, universities, colleges, school boards, and thousands of smaller organizations. With regard to such organizations, the Act only allows for inspection audits, which are restricted to an examination of accounting records to determine whether grants provided were used for the intended purpose. While value-for-money-oriented observations may arise as a by-product of such audits, the audits cannot be value-for-money focused. Based on our experience in conducting inspection audits of major grant recipients in the community-college, university, hospital, and school-board sectors from 1984 to 1991, the Office came to the conclusion that the legislated scope of such audits was too narrow to effectively serve as a vehicle for meaningful reporting to the Legislature.

Given that grants to fund the expenditures of organizations delivering health care, social services, education, and a multitude of other services to Ontarians constituted over 50% of total government expenditures, the Office's position was, and still is, that providing the legislative auditor with the authority to conduct discretionary value-for-money audits on these organizations would contribute to the overall accountability of these organizations to the Legislature and Ontario taxpayers.

The Office's proposed amendments to the *Audit Act* to address this issue were initially discussed with the Standing Committee on Public Accounts in 1989–90. In a 1990 Report to the Legislature, the Committee recommended that the *Audit Act* be amended to provide the Provincial Auditor with the discretionary authority to perform value-for-money audits of any government agency and all transfer-payment recipients. Over the years, former Provincial Auditors Doug Archer and Erik Peters both made presentations to the Committee on this proposal. The proposals presented to the Committee were fully supported by it each and every time. Three private members' bills, with a similar purpose, have also been introduced in the Legislature.

In recent years, legislators and the public across Canada are increasingly demanding that public accountability structures be strengthened. Legislative audit offices can play a very important role in enhancing the accountability structures in government. Many other Canadian legislative audit offices already have the legislated discretionary authority to conduct value-for-money audits of grant recipients. In fact, the mandates of the Auditors General of British Columbia and Prince Edward Island go even further by permitting the Auditor General to evaluate actual program effectiveness, not just the adequacy of procedures in place to measure effectiveness.

In fall 2003, we were advised by the Ministry of Finance that the Minister of Finance had decided to table amendments to the *Audit Act* in the Legislature. We were provided with the opportunity to provide our suggestions on the draft legislation at that time. On December 9, 2003, the Minister of Finance introduced Bill 18, entitled An Act respecting the Provincial Auditor, for first reading in the Legislature. At the time of this writing, the bill was at the second reading stage. We are hopeful that the bill will be referred to the Standing Committee on Public Accounts for review this fall.

Bill 18 is largely consistent with the principles underlying our proposed amendments to the *Audit Act* and with the recommendations over the years made by the Standing Committee on Public Accounts. The bill includes provisions that, if passed, will:

- expand the Auditor's value-for-money audit mandate to organizations in the broader public sector that receive government grants, such as hospitals, colleges, universities, school boards, and any other organization meeting the definition of grant recipient (the expanded mandate would not apply to grants to municipalities, yet would allow the Auditor to determine whether a municipality spent a conditional grant for the purposes intended);

- change the title of Provincial Auditor to Auditor General, with other corresponding name changes;
- enable the Auditor to conduct value-for-money audits of Crown-controlled corporations such as the new Hydro corporations;
- change the term of appointment of the Auditor from a term ending at age 65 to a fixed, non-renewable term of 10 years; and
- modernize the provision regarding the expression of an audit opinion on the financial statements of the province to require that the Auditor opine on whether the statements are fairly presented in accordance with appropriate generally accepted accounting principles for governments as promulgated by the Canadian Institute of Chartered Accountants.

We are satisfied that, aside from one issue of concern, Bill 18 generally addresses those areas of the current *Audit Act* that we felt required amendment. The one area that is not being amended and that has for many years caused us serious operational problems relates to the statutory requirement that the salaries of our staff must be comparable to the salary ranges or classifications in the Ontario public service. Unlike public service employees, almost all of our staff, because of the specialized work they do, are professional accountants—primarily chartered accountants—who are in great demand both in the private sector and across the broader public sector. However, the government's classification levels often do not provide our Office with the flexibility to pay competitive salaries. For years, this restriction on our ability to compensate our staff in line with the salaries offered in the competitive Toronto job market has been a contributing factor to a continually high turnover rate of our professional staff. This is particularly problematic given our heavy emphasis on value-for-money auditing, which requires technical and managerial skills developed through years of experience.

We believe the successful implementation of the expanded mandate proposed in Bill 18 will depend largely on our ability to both retain our current experienced staff and offer competitive salaries to attract additional experienced professionals.

If the Legislative Assembly passes Bill 18 in its present form, it should be noted that the broad new powers granted to audit grant recipients will be exercised with a great deal of discretion and, as with all our audits, based on an assessment of risk. Such audits will obviously include value-for-money issues; however, the scope, objectives, and approaches that we take in discharging our proposed expanded mandate will be the subject of further discussions with the Standing Committee on Public Accounts and with representatives of the grant-recipient organizations.

In conclusion, we are very encouraged by the tabling of Bill 18, as our quest to achieve the goal of expanding the Provincial Auditor's value-for-money mandate to those organizations receiving government grants has been a long and sometimes arduous one. I am therefore pleased to be able to report that this goal, which enhances our ability to better serve the Legislature, may finally be reached in the near future.

# PROPOSED LEGISLATION ON GOVERNMENT ADVERTISING

The distinction between government advertising and partisan advertising can sometimes be unclear. In order to provide adequate public accountability on this subject, legislators and public servants need the tools to distinguish between government advertising appropriately funded by the taxpayer and political or partisan communications.

Accordingly, in 1999 we reviewed this area. In our *1999 Annual Report*, we pointed out that the Management Board Directive on Advertising and Creative Communication Services did not provide criteria to help distinguish between informative government advertising and partisan advertising. We recommended, based on research we conducted of practices in other jurisdictions, that in the interest of improving public accountability, the government should consider establishing principles, guidelines, and criteria that clearly define what the nature and characteristics of taxpayer-funded advertising should be.

In November 2003, we were advised that legislation was being considered to address the partisan-advertising issue and that the government would like the Provincial Auditor to review proposed advertising to ensure it is not partisan in nature.

We had discussions with the Chair of the Management Board of Cabinet and with Management Board Secretariat staff regarding the draft legislation. On December 11, 2003, the Chair of the Management Board of Cabinet introduced Bill 25, entitled An Act respecting government advertising, for first reading in the Legislature. The purpose of the bill is to ban partisan government advertising.

Government advertising would have to meet the following standards as proposed in the bill:

- It must be a reasonable means to achieving one or more of the following purposes:
    - to inform the public of current or proposed government policies, programs, or services available to them;
    - to inform the public of their rights and responsibilities under the law;
    - to encourage or discourage specific social behaviour, in the public interest; and/or
    - to promote Ontario or any part of Ontario as a good place in which to live, work, visit, study, or invest.

- It must include a statement that the item is paid for by the government of Ontario.
- It must not include the name, voice, or image of a member of the Executive Council or a member of the Assembly (this would not apply with respect to proposed advertising whose primary audience is located outside of Ontario).
- It must be non-partisan.
- It must not be a primary objective of the item to foster a positive impression of the governing party or a negative impression of a person or entity that is critical of the government.

Items covered by the bill would include advertising that the government pays to have appear on television, radio, billboards, and in print, and printed material that the government pays to have distributed by bulk mail to households.

Advertising and printed material done on an urgent matter affecting public health or safety, public notices required by law, government of Ontario tenders, and job advertisements are exempt under the proposed legislation.

With respect to our Office, the bill proposes the following:

- The Office of the Provincial Auditor is to review specified proposed government advertising and printed material within a prescribed number of days.
- Subject to the approval of the Board of Internal Economy, the Provincial Auditor may appoint a person to act as Advertising Commissioner, who may exercise such powers and shall perform such duties as the Auditor may delegate to him or her.
- An item reviewed by the Provincial Auditor, or his/her designee such as the Advertising Commissioner, and deemed to promote partisan interests could not proceed under the requirements of the bill.
- The Provincial Auditor would be required to report annually to the Legislature on any matters of non-compliance with the Government Advertising Act and on the total cost of advertising that is subject to the Act.

In explaining why the government wanted the Office of the Provincial Auditor to perform this function, the Chair of the Management Board of Cabinet advised us that:

> The high importance that our government places on this initiative is reflected in the choice of your Office, as a guardian of public trust, to assure the integrity of government advertising.

At the time of this writing, Bill 25 was at the second reading stage. Should the bill be passed by the Legislature, we expect that there will be a phased-in proclamation in order to allow the Office time to establish the necessary review processes, including the appointment of an Advertising Commissioner.

# PROPOSED LEGISLATION ON FISCAL TRANSPARENCY AND ACCOUNTABILITY

As announced in the 2004 Budget, on May 18, 2004 the Minister of Finance introduced Bill 84, entitled An Act to provide for fiscal transparency and accountability, for first reading in the Legislature. If passed, the bill would repeal the *Balanced Budget Act, 1999* and, according to the Minister's budget address, would require that the Ministry of Finance release to the public a pre-election report about Ontario's finances and that the Provincial Auditor review the report to determine whether it is reasonable and release a statement describing the results of the review.

The bill also includes a requirement that the Minister publicly release:

- a multi-year fiscal plan in the Budget papers;
- a mid-year review of the fiscal plan;
- periodic updated information about Ontario's revenues and expenses for the current year;
- Ontario's economic accounts each quarter; and
- a long-range assessment of Ontario's fiscal environment, no later than two years after each provincial election.

The government has also taken steps under its democratic renewal initiatives to fix the dates for future elections. In this regard, the government has introduced Bill 86, which, if passed, would, among other things, amend the *Election Act* so that provincial elections would occur at four-year intervals on the first Thursday in October, starting October 7, 2007.

The deadline for the release of a pre-election report is to be established by regulation. We expect that the deadline will provide the Provincial Auditor with sufficient lead time to complete the required review of the report before the election date.

# OTHER INITIATIVES TO IMPROVE ACCOUNTABILITY IN THE BROADER PUBLIC SECTOR

## *HEALTH-CARE SECTOR*

In our *1999 Annual Report*, we recommended that the Ministry of Health and Long-Term Care "should ensure that an accountability framework that clarifies its expectations of hospitals and their accountability to the Ministry is implemented as soon as possible." In response to our recommendation, the Ministry advised us that it was working with the Ontario Hospital Association to develop a formal accountability framework to accomplish this and that the framework was expected to be completed in 1999. In our 2001 follow-up to this recommendation, we were advised that a framework that defined respective roles and responsibilities had been developed but that defining and agreeing on performance expectations would require additional work over the next 12 to 18 months.

While we have not conducted additional audit work in this area since that time, we were encouraged by the passage of Bill 8, the *Commitment to the Future of Medicare Act, 2004*, in June 2004. The Act provides for the establishment of the Ontario Health Quality Council and provides a framework for entering into accountability agreements with health-resource providers.

With respect to the Health Quality Council, the Minister of Health and Long-Term Care stated that:

> The council will provide Ontarians with meaningful information so they can measure our government's performance and hold us to account. The Ontario Health Quality Council exists to serve the broad and diverse interests of Ontarians by measuring across a broad array of indicators how our health care system is performing. We will, for once, finally have an annual, at-a-glimpse opportunity to measure how we're doing to mark the continuous improvement that we're involved in.

With respect to the accountability agreements, the Minister stated that:

> Bill 8's accountability agreements clarify expectations in order to secure mutual benefits for both health providers and the Ontarians they serve. The accountability agreements are about a new mature relationship with our health care providers, a relationship that for the very first time ties funding to results, rewards good performance, and has real consequences for poor performance.

We believe that the *Commitment to the Future of Medicare Act, 2004* is a positive step in addressing our 1999 recommendation for enhanced accountability measures in the health-care sector.

## EDUCATION SECTOR

While under the current *Audit Act* we have not been able to conduct value-for-money audit work at universities and colleges of applied arts and technology, we have previously reviewed the adequacy of the accountability mechanisms in place between the Ministry of Training, Colleges and Universities and such institutions. Our work indicated that, for both universities and colleges, the Ministry did not yet have adequate accountability frameworks in place to ensure these institutions were cost-effectively meeting provincial needs and expectations, although some progress has been made since our reviews.

Consequently, we noted with interest that the 2004 Ontario Budget announced the commencement of a comprehensive review of postsecondary education in Ontario. The mandate of the review is to recommend to the government how best to provide Ontarians with a high-quality, accountable, and affordable system of postsecondary education. One of the key objectives of the review will be the development of an accountability and performance measurement framework that supports recommendations on system design and funding models. It is expected that the review's final recommendations will be presented to the government in January/February 2005.

With respect to the elementary/secondary education sector, in July 2004 the Minister of Education announced measures to ensure that special education investments get to the students who need them. Included in the announced measures is a proposal to establish an Effectiveness and Efficiency Office (EEO) within the Ministry of Education.

In our 2001 audit of special education grants to school boards, we concluded that the accountability framework for these grants was evolving and noted that the Ministry was in the process of taking steps to design a system for the provision of special education grants and services. However, the Ministry of Education and school boards did not yet have the information and processes needed to determine whether special education services were being delivered effectively, efficiently, and in compliance with requirements. Accordingly, we were encouraged to learn that the EEO will be working with school boards to assist them in adopting best practices, including those in the area of special education services.

## CHAPTER THREE

# Reports on Value-for-money (VFM) Audits

Our value-for-money audits are intended to examine how well the government's programs and activities are being managed and whether they comply with relevant legislation and authorities and, where appropriate, to identify opportunities for improving the economy, efficiency, and effectiveness measures of their operations. These audits are conducted under subsection 12(2) of the *Audit Act*, which requires the Office to report on any cases observed where money was spent without due regard for economy and efficiency or where appropriate procedures were not in place to measure and report on the effectiveness of programs. This chapter contains the conclusions, observations, and recommendations for the value-for-money audits conducted in the past audit year.

Due to the size and complexity of the province's operations and administration, it is neither practicable nor necessary to audit each program every year. Instead, the Office audits programs and activities cyclically—almost all major programs and activities are audited over a five- to seven-year period. The programs and activities audited this year were selected by the Office's senior management based on various criteria, such as a program's financial impact, its significance to the Legislative Assembly, related issues of public sensitivity and safety, and the results of past audits of the program.

We plan, perform, and report on our value-for-money work in accordance with the professional standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants.

Before beginning an audit, our staff meet with auditee representatives to discuss the focus of the audit. During the audit, staff maintain an ongoing dialogue with the auditee to review the progress of the audit and ensure open lines of communication. At the conclusion of the audit field work, a draft report is prepared, reviewed internally, and then discussed with the auditee. Senior office staff meet with senior management from the ministry or agency to discuss the final draft report and to finalize the management responses to our recommendations, which are then incorporated into each of the VFM sections.

# 3.01–Office of the Public Guardian and Trustee

## BACKGROUND

The Office of the Public Guardian and Trustee (Office) operates under the *Public Guardian and Trustee Act* and various other provincial statutes. Its primary responsibilities include providing services to mentally incapable persons by:

- acting as the guardian of property and/or personal care for mentally incompetent individuals; and
- acting as the treatment decision-maker of last resort for persons who are not capable of making their own decisions and who have no one else to make these decisions for them.

Other primary responsibilities of the Office include:

- the administration of estates of persons who die in Ontario without a will and without known relatives;
- gathering assets on behalf of the Crown when there is no known owner of these assets or the owner is a corporation no longer in existence; and
- a general supervisory role over charities and charitable properties to protect the public's interest.

Since 1997, the duties of the Office have expanded to include those of the Accountant of the Superior Court of Justice (then the Accountant of the Ontario Court), which is the depository for all monies, mortgages, and securities paid into, or lodged with, the court. These assets are received and disbursed pursuant to judgments and orders of the court. The Accountant of the Superior Court of Justice also administers monies received by the court to the credit of minors until they reach the age of majority.

The Office charges fees for its services to incapable clients and for administering estates. Service fees vary in accordance with amounts permitted by legislation based on the value of assets, income, and services required. Total service fees collected in the year ended March 31, 2004 amounted to approximately $16.5 million. For the fiscal year ended March 31, 2004, the Office was responsible for the investment and management of approximately $1 billion of assets as trustee for its incapable and other clients from the various programs.

The Office's head office is located in Toronto, with regional offices in Toronto, Hamilton, London, Ottawa, and Sudbury. For the fiscal year ended March 31, 2004, the Office had approximately 300 staff and operating expenditures of $27 million.

# AUDIT OBJECTIVES AND SCOPE

Our audit objectives were to assess whether the Office had adequate systems and procedures in place to:

- fulfill its key mandates, including: protecting the rights and interests of mentally incapable clients, administering the estates of deceased persons without a will or known next of kin in Ontario, and protecting the public's interest in charities; and
- ensure its services and programs were delivered economically and efficiently.

Our audit focused on the core programs and activities of the Office: Services to Incapable Persons, Estate Administration, the Accountant of the Superior Court of Justice, the Charitable Properties Program, and the investment of trust assets. At the beginning of our audit, we identified audit criteria that would be used to address our audit objectives. These were reviewed and accepted in November 2003 by senior management of the Office.

The scope of our audit, which was substantially completed in March 2004, included interviews, inquiries, and discussions with relevant staff of the Office, as well as reviews of client files, the Office's policies and procedures, and relevant management and external consultants' reports. We also reviewed and took into consideration the work performed by the Ministry's and the Office's internal audit staff in determining the extent of our audit work.

Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

# OVERALL AUDIT CONCLUSIONS

We concluded that the Office had made a number of key operational improvements since our last audit in 1999. Specifically:

- Authority to provide guardianship services was being obtained on a more timely basis.

- In providing services to incapable clients, the Office was generally meeting performance targets relating to the frequency of visits, the protection of the legal interests of incapable clients, and the securing and disposing of assets.
- Close-out procedures in transferring assets to a client's estate were being performed satisfactorily.
- Decisions regarding medical treatment were supported by medical and other required documentation.

While improvements have been made over the last five years in the Office's ability to fulfill its mandate, our current audit did identify areas where improvements were still required. Specifically:

- In the administration of estates, while some progress has been made in locating heirs for estates taken over, a significant backlog still exists.
- Although initial action had been taken to locate all minors who are entitled to assets being held by the Accountant of the Superior Court of Justice once they have become eligible for payment, in a number of cases there was a lack of follow-up action.

In addition, with respect to the management of the $1 billion in assets entrusted to the Office for investment under its various programs, we noted the following:

- In selecting fund managers, one candidate was selected as top choice to manage the diversified and Canadian money market funds ($50 million and $300 million, respectively), despite the fact that this candidate had consistently underperformed when compared to the performance of most of the other candidates and to market benchmarks for 10 years prior to its selection. We were also concerned that after being awarded the contract for the Canadian money market fund, the successful candidate was granted substantially higher management fees than its original quote, even though this candidate had been awarded the contract primarily because of its low fees quote.
- The Office did not adequately assess the suitability of incapable clients with respect to their health and age before investing their funds in higher-risk stock markets through its diversified equities fund rather than in fixed-income funds.
- Insufficient attention was paid to ensuring appropriate diversity of client investment portfolios. This resulted in some clients incurring significant losses. For instance, 80% of one elderly client's assets were in one stock, which, as a result of a subsequent significant decrease in the value of this one stock, resulted in an over 80% decline in portfolio value over a three-and-a-half-year period.

Our current audit also concluded that the Office had adequate procedures for reviewing applications for incorporating charities and to handle complaints. However, it had not adequately followed up on charities deregistered by the Canada Revenue

Agency to ensure that their assets were properly distributed to beneficiaries or transferred to successor charities to prevent misuse or misappropriation.

# DETAILED AUDIT OBSERVATIONS

## *SERVICES TO INCAPABLE PERSONS*

With the exception of about 20 personal-care guardianships, almost all of the Office's 9,000 cases of incapable clients involve property guardianship, which requires the Office to manage these clients' financial affairs. Since these clients have no one willing and able to make decisions for them, guardianship is necessary to protect them from potential harm caused by abuse and/or neglect. Approximately 30% of these clients reside in nursing homes or other chronic-care institutions. The rest reside in the community in non-institutional residences. Guardianship involves ensuring that clients receive all the income and/or benefits they are entitled to, determining their spending allowances and expense requirements, and setting up routine payments to meet those requirements.

For about 12% of clients with real estate or other substantial assets, Office staff are required to identify and account for all client assets on a timely basis, arrange for routine property maintenance and annual inspections, and dispose of assets when appropriate to reduce the risk of clients losing the value of their assets and avoid unnecessary maintenance and other expenses.

Our review of guardianship cases indicated that, except for the investment of the assets (see the section on "Investment of Trust Assets" for a discussion of investing clients' funds), the Office had improved its services to its incapable clients. Specifically, we noted:

- The Office had obtained authority to provide guardianship services to clients on a timely basis and in compliance with legislative and Office requirements.
- The Office had established and generally met performance targets relating to frequency of visits, the timeliness of taking legal actions to protect the interest of incapable clients, field investigation of property, redirection of income, and securing and disposing of assets.
- The Office's authority as guardian for incapable persons is terminated upon the death of the client, by the client regaining capability, or by the loss of continuing jurisdiction to manage the client's affairs. We were satisfied that closing-out procedures were performed in an appropriate and timely manner in transferring assets to the client's estate, to the client if the client has been found capable, or to a private guardian.

In addition to providing guardianship services, the Office also decided on treatment for individuals who had no relative or legally designated decision-maker willing and able to make such decisions. We noted that such decisions were supported by medical and other documentation.

## ESTATE ADMINISTRATION

The Office is responsible for administering the estates of individuals who die in Ontario without a will or known next of kin, providing the estate has a value of at least $5,000. For the estates it is administering, the Office conducts investigations to determine if the deceased had a will, applies to court for the estate administration, identifies and locates heirs up to second cousins where possible, and distributes assets to beneficiaries. For its efforts, the Office is compensated based on a percentage of the assets as allowed by provincial law for trust administration. Under the *Escheats Act*, if heirs cannot be located, the assets of an estate become payable to the province 10 years after the date of death.

As of December 2003, the Office had 1,785 outstanding estate files with assets valued at about $87 million under its administration as shown in the following table.

**Estates under Administration as of December 2003**

| Estates under Administration | Number | Value |
|---|---|---|
| files opened prior to 1993 (payable to the province) | 460 | $18,000,000 |
| files opened from 1993 to 1998 | 564 | $21,000,000 |
| files opened from 1999 to 2003 | 761 | $49,000,000 |
| **Total** | **1,785** | **$87,000,000** |

*Source of data: Office of the Public Guardian and Trustee*

### Locating Heirs

In our 1999 audit of estate administration, we were concerned with the lack of timely searches for the heirs of estates taken over prior to 1996. Subsequent to our audit, a special project was initiated in October 1999 to review 547 files with assets valued at more than $10,000. As a result of this special project and the more timely efforts of staff in processing current files, we noted that the Office has improved its effectiveness in locating heirs on a more timely basis. However, our review of the files from the 1999 special project showed that in a number of cases, even though heirs had been located more than two years ago, follow-up letters advising the heirs of their entitlements were not sent out until we inquired about those cases. The Office indicated that staff turnover was the main reason for the lack of timeliness in advising the heirs.

Once heirs are located and proof of heirship established, an estate file is classified as under interim closure until assets are distributed. The file is closed only when all the assets are distributed. Our review indicated that there had been a steady increase in the number of files closed and amount distributed since our 1999 audit. However, since 1999, the Office on average opened about 240 new files each year and closed 300. Although this allowed the Office to keep up with the current workload, it cleared only about 60 additional files a year. As shown in the preceding table, in December 2003 the Office still had almost 1,800 estates where either the heir needed to be located or the heir's funds needed to be distributed. The Office indicated that a number of these files—for example, those delayed by external restrictions (such as the failure of heirs to submit requested documentation or legal complications in the liquidation/administration of assets)—should not be considered as part of the backlog.

Notwithstanding, given the current rate of processing, the majority of these outstanding files would take many years to clear. This is all the more serious given that the deceased person's assets become the property of the Crown if the heirs are not located and assets are not distributed within 10 years after the deceased person's death. Although the transfers are subject to future claims of heirs, such claims are rare and infrequent, because potential heirs would have limited or no knowledge about these transfers.

**Recommendation**

**To properly discharge its duty as estate trustees, the Office should increase its efforts to locate heirs and distribute assets on a more timely basis.**

***Office Response***

***The Office will continue to increase its efforts to conduct heir searches and distribute estate assets on a more timely basis. Considerable work has already been completed in that regard.***

***As of August 18, 2004, over 400 cases are ready to be finalized, subject only to a pre-closure review. An additional 219—representing most of the remaining special project files—are in the final stages of administration. Ongoing current work is being processed at an appropriate pace.***

***We wish to note that the Office, by policy, does not transfer any estate over $10,000 to the Crown without having first conducted a thorough search for potential heirs, even if the complexities of the case require that the search extend beyond the 10-year period.***

## Accountant of the Superior Court of Justice

The Accountant of the Superior Court of Justice is the depository for all monies, mortgages, and securities paid into, or lodged with, the court. In this capacity, the

Office acts not as a guardian, but rather as a custodian, and invests funds for clients. These funds are received and released pursuant to judgments and orders of the court, and in accordance with the *Courts of Justice Act* and other relevant statutes. Where monies are paid into court to the credit of minors, the Office is to administer the funds until the children reach the age of majority (18) or as specified by the court.

As of November 2003, the Accountant had approximately $501 million in assets under its administration. Of this amount, $341 million was from about 25,500 minor accounts and $160 million was from approximately 12,500 litigant accounts.

## Distribution of Assets

In our 1999 audit, we noted that a significant number of assets intended for the benefit of children had not been distributed until years after the individuals had reached the age of majority at 18. Following that audit, the Office initiated a special project in February 2000 to clear the backlog. The project was successful in paying out about 85% of the assets identified as being overdue in our audit. As of March 2004, there were still more than 600 of the former minors with about $4.6 million in assets that had yet to be paid. About 270 of these minors, with assets totalling $2 million, were over 25 years of age.

Our current audit indicated that since 2000 the initial notifications to minors to inform them of their entitlement were generally sent out on a timely basis. However, after the notices were sent out, there was a lack of follow-up, such as through Ministry of Transportation drivers' licence records, to search for these minors where the current address was unknown. We noted that in a number of cases there had been no follow-up for two to three years after the initial notification letter had been sent out.

### Recommendation

**To ensure that beneficiaries receive funds when they are legally entitled to them, the Office should initiate more rigorous and timely follow-up action to locate and distribute funds to intended beneficiaries.**

### *Office Response*

***The Office agrees that follow-up action must be timely and took steps to ensure that this would be the case by putting in place a new tracking system in December 2003 that would monitor responses and provide reminders to staff. All accounts have now been followed up and will continue to be rigorously monitored.***

# *INVESTMENT OF TRUST ASSETS*

The Office acts as a trustee to manage and invest trust assets from all its programs in order to earn a reasonable rate of return while also maintaining the original principal and investments; in total, the Office administers about $1 billion in trust assets. In the past, the Office invested trust assets in accordance with a list of investment instruments authorized by section 3 of the *Financial Administration Act* and sections 26 and 27 of the *Trustee Act*. This legislation did not allow a trustee to invest trust funds in investment instruments other than fixed income securities. As a result of legislative changes, the *Trustee Act* was amended in July 1999 to require the use of a "prudent investor standard" and stipulated that a trustee:

- must exercise the care, skill, diligence, and judgment that a prudent investor would exercise in making investments;
- may invest trust property in any form of property (including stocks) in which a prudent investor might invest; and
- must diversify the investment of trust property to the extent appropriate.

Recognizing the diverse objectives of its client base, the Office established the following investment vehicles to invest clients' assets:

- The **diversified fund** (over $100 million under management) consists of a portfolio of Canadian and foreign stocks and bonds designed to generate capital gains and a stable income yield. To participate in the diversified fund, a client's assets must be able to be held for five years or more; the client must not require access to the capital in the near future and must need to preserve and enhance the purchasing power of his or her capital over the longer term.
- The **fixed income fund** (over $800 million under management) combines the yields from two money market funds and a bond fund. All trust property and clients' funds not invested in the diversified fund are invested in the fixed income fund.

To select investment management firms for these funds, the Office engaged an external adviser to assist in evaluating the firms and negotiating with them.

## Engagement of Investment Advisory Firm

Since 1992, the Office has engaged the service of the same investment advisory firm to provide continuous general advice relating to the investment of funds. The advice is to help the Office meet its investment objectives and includes recommendations on asset mix, investment policies, and strategies. The firm also provides advice on and assists in the evaluation and selection of the investment managers responsible for the investment of the Office's funds.

The Management Board of Cabinet directive on consulting services stipulates that vendors must not be permitted to gain a monopoly for a particular kind of work, and that relationships that result in continuous reliance on a particular vendor must not be created. To enable all vendors to have a fair opportunity to compete for contracts, the directive also stipulates that sufficient lead time (a minimum of 15 days) be given to potential vendors to develop proposals and submit bids.

A contract was most recently granted to the investment advisory firm in December 2002 at a cost of approximately $225,000 over two years. The contract was awarded through a request for proposals (RFP) posted on MERX, an electronic tendering system used in the Canadian public sector. Despite there being many firms qualified to offer investment advisory services, the Office received only two bids besides that of the incumbent firm. In evaluating the three proposals, the Office awarded scores to the two competitors that, even when combined, were lower than the score of the incumbent firm.

Our audit showed that potential vendors were given only 14 days to develop a proposal and submit a bid. In addition, four of those days fell within a period of religious holidays when many staff of potential vendors would not be working, thus restricting the opportunity for some firms to compete for the contract. Moreover, the incumbent firm had the advantage of needing less time to formulate a proposal due to its long-term familiarity with the Office.

With respect to the selection of the incumbent firm, our audit found that while the incumbent investment advisory firm was registered with the Ontario Securities Commission as an investment counsel prior to 1998, its registration lapsed in March 1998 and the firm has not been registered since. Firms involved in providing investment advisory services in Canada are usually registered as investment counsel with the provincial securities commissions in the provinces where they offer their services. The Office indicated that the firm's position was that such registration was not required because continuous advice on the investment of funds was not being provided. However, aside from the fact that the Office had indicated that it did engage the firm to provide continuous general advice on the investment of funds, the purpose of registration is to ensure that firms are qualified to provide investment advisory services and that they comply with specific filing and disclosure requirements.

As the same investment advisory firm has been used since 1992, we are concerned that a situation of monopoly and a situation of continuous reliance could develop in the Office's relationship with this firm. We encourage the Office to ensure that all vendors are provided with a fair opportunity to compete for this contract.

**Recommendation**

**To obtain better value and to avoid continuous reliance on a particular vendor, the Office should establish appropriate mechanisms for attracting more potential vendors for the provision of investment advisory services.**

***Office Response***

***The Office acknowledges that, although its 2002 request for proposals (RFP) for investment consulting services was posted on MERX to permit fair and open access, the posting was for 14 days as opposed to the 15 days required by Management Board policy. The Office will ensure that future RFPs more fully comply with Management Board policy and will explore ways to attract more potential vendors.***

## Selection of Diversified Fund Managers

The Office posted an RFP in early 2000 on MERX to select two investment management firms to manage the diversified fund. The use of two investment managers diversifies the risks that might occur with just one manager investing in the market. The candidates were required to submit their performance records relating to Canadian stocks, foreign stocks, and bonds for the previous 10 years. With the assistance of the investment advisory firm, the Office developed a total-performance benchmark to evaluate the candidates, consisting of a mix of market indexes to reflect the Canadian, global, and bond markets. We were advised that the investment advisory firm applied additional qualitative criteria, including investment philosophy and style, risk controls, succession planning, and records of staff turnover, client service, experience, and firm reputation to determine the short list. Proposals were received from 15 firms, and five firms were shortlisted and interviewed. Numerical scores were used to rank the candidates, and the managers with the highest and second-highest scores were selected to manage the diversified fund.

### *SELECTION PROCESS*

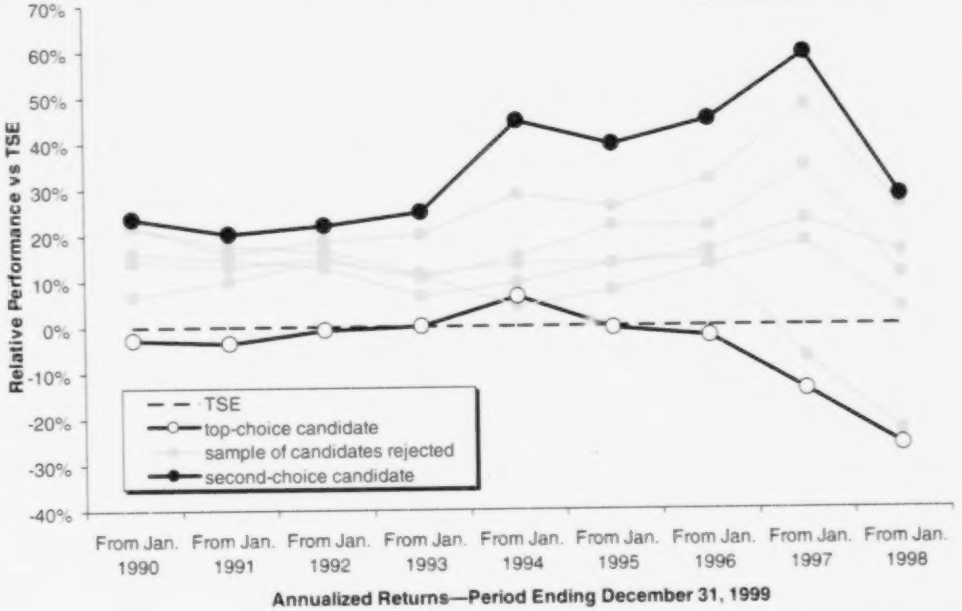
Two candidate firms were selected and we noted that the candidate with the second-highest scores consistently met the performance benchmark selection criteria established by the Office. However, the candidate that the Office selected as its top choice did not. In fact, the top-choice candidate consistently had the lowest annualized investment performance of all the shortlisted candidates. Management responded that investment performance was important in evaluating candidates, but that:

- Performance was the key factor only at the first stage of selection. Management informed us that a screening of all 15 candidates had already been done to eliminate consistent underperformers. Consequently, performance was no longer an important factor in ranking shortlisted candidates.

- The screening results indicated that the differences in past performance among the shortlisted candidates were not significant.

However, when we compared the past performance of all candidates, we noted that the top-choice candidate was shortlisted despite the fact that it had underperformed with respect to the total-performance benchmark established by the Office and to other candidates. Its performance in terms of annualized returns over the years was the lowest of the shortlisted candidates and was 13th out of all 15 candidates. With respect to the performance of this candidate in Canadian equities, the following chart compares its performance relative to the TSE 300 Index and a sample of top candidates over the 10 years prior to its selection.

**A Comparison of Market Performance for Diversified Fund Candidates**



*Source of data: Office of the Public Guardian and Trustee*

As the line graph illustrates, the manager selected by the Office as its top choice outperformed the TSE 300 Index only once in the 10-year period on an annualized-return basis.

The candidate also consistently underperformed in relation to the benchmark for the global equity market. Its performance met the benchmark in the bond market. However, overall it had not met the total-performance benchmark on an annualized-return basis in the eight years prior to its selection.

We noted that, in reporting the screening results, the Office itself pointed to studies stating that past top-quartile managers have a statistically significant probability of outperforming in subsequent periods and that managers who underperform have a stronger likelihood of underperforming in the future. In this regard, our review of the relative performance of the two selected managers for their annualized returns of Canadian stocks showed that the second-choice manager provided better returns than the top-choice manager by—depending on the year of initial investment—22% to 85% in the 10 years prior to being selected in 2000. We found the screening process questionable, since it appropriately highlighted the importance of past investment performance but did not clearly identify that this candidate had consistently underperformed.

## Post-selection Performance—Diversified Fund

The two managers were each given over $50 million to invest to allow for ready comparison of post-selection performance. From August 2000 through March 2004, both managers met the Office's expectation that they meet or exceed a benchmark performance of various stock and land indexes.

However, the top-choice manager's return was $10 million lower than the return earned by the second-choice manager. Over the three-and-a-half-year period, the second-choice manager attained a return of 7.1%, whereas the top-choice manager's return was only 1.7% per year.

Individual clients who had funds invested in the diversified fund would have their funds spread equally between the two managers. In addition, only a portion of these clients' assets would be invested in the diversified fund, with the remaining portion invested in the Office's regular fixed-income interest account. To put this in perspective, a client with a $100,000 investment in the diversified fund over the three and a half years would have had an actual return of $16,000 (4.4%) per year ($13,000 return from the second-choice manager and $3,000 from the top-choice manager). The portion of funds not invested in the diversified fund would have provided a return of 5.5% per year from the Office's regular fixed-interest account.

### Recommendation

**The Office should critically evaluate the performance of potential investment managers based on investment returns and ensure that its process for selection of investment managers eliminates candidates that consistently underperform.**

### *Office Response*

***The two managers that were selected have different investment styles, such that one can be expected to perform better than the other in certain market conditions. Choosing managers with a variation in styles was a method of addressing the risk that is posed by unpredictable market conditions. One manager's style produced good results during a period when the stock market was volatile, while the other manager's style has produced higher returns in the past year under different market conditions.***

***The Office agrees that evaluation of performance of potential investment managers is an important step in the selection of a fund manager and will ensure that, in the future, the past performance of potential investment managers will be more critically evaluated in the selection of investment managers.***

## Selection of Fixed Income Funds' Managers

With over $800 million under management, the fixed income funds primarily comprise two money market funds and a bond fund.

- The two money market funds consist of a small U.S. fund with about $4 million (mainly for clients with U.S. funds) and a Canadian fund with about $320 million in assets as of December 31, 2003. Both funds include fixed income short-term government treasury bills and corporate paper; they are designed to preserve original capital and to generate income.
- The bond fund includes bonds designed to generate a high, stable income yield and to preserve original capital. The fund is managed using a "laddered buy-and-hold" (LBH) strategy, whereby individual fixed income securities with different maturity intervals are purchased and held to maturity. As of December 31, 2003, the LBH bond fund had assets of about $515 million.

### *TENDERING PROCESS*

To achieve the best value and to promote fair dealings and equitable relationships with the private sector, the Management Board of Cabinet directive for the procurement of goods and services stipulates specific competition requirements. Specifically, the directive states that services with an estimated total contract value of over $100,000 must be acquired through an open tendering process. The reasons for any exceptions to open tendering must be justifiable and properly documented, and prior approval must be obtained from the deputy head or his or her designate.

We noted that in contrast to the process for the smaller diversified fund of just over $100 million, which was an open tender, the RFP issued in early 2002 for the management of the over $800 million fixed income funds that had expected total contract values of over $500,000 for three years, was not acquired through a call for open tender. Instead, the Office invited tender from only the four existing investment managers who were already administering the diversified fund and the fixed income funds. There was also no evidence of prior approval from the Deputy Attorney General and no documentation had been kept on the justification for not following the open-tendering requirement.

In response to our inquiry, the Office indicated that it did not consider it necessary to open the field to other potential candidates because the current managers were all performing adequately, and they had all been previously acquired through a formal tendering process and already understood the Office's mandate and investment objectives. However, given the significant size of the assets being managed under the fixed income fund, we were concerned that the competition was not extended to a wider range of potential candidates to ensure best value for the funds expended and that the competition was not a fully open and transparent process.

### SELECTION OF MONEY MARKET FUNDS' MANAGER

In response to the RFP, three investment management firms, including the incumbent, submitted proposals to manage the Canadian money market fund with assets over $300 million; one firm declined the invitation. We noted that the top-choice candidate selected for the diversified fund was also selected to manage the money market fund. The Office indicated that the selection was mainly based on management fees because differences in performance were not significant. It also indicated that all three potential managers exhibited the same performance on an annualized five-year basis. However, our review of the performance comparison report used by the Office to select the fund manager showed that as of March 31, 2002, on an annualized basis the selected candidate's performance was the lowest of all candidates in seven of the prior 10 years.

We noted that the selected candidate had offered a very attractive fee quote of 2.2 basis points (bp)—a basis point is one-hundredth of a percentage point. The incumbent manager's fee was 5 bp, but the incumbent manager had a better performance record during its contract. In most of the prior 10 years, the incumbent manager earned 20 bp more in annualized returns than did the successful candidate.

After subtracting the higher fee difference of 2.8 bp from the 20 bp in extra returns, the net return from the incumbent manager would have been an extra 17.8 bp in annualized returns. To put this in perspective, an extra 17.8 bp on a $300 million fund could yield an additional return of over $500,000 per year to the Office's clients.

As the Office considered the fee quote to be the primary criterion as opposed to investment performance, the Office requested both managers to resubmit a fee quote. Neither fund manager changed its quote and the candidate with the lower fee was awarded the contract. However, we noted that subsequent to being awarded the contract, the selected candidate was granted a higher fee than its original quote. The Office advised us that the firm advised them that it had made an error in its original fee quote of 2.2 bp. The "correct" fee should have been around 4.5 bp. The Office decided to pay a compromise fee of 3.3 bp for two years and 4.5 bp after that. The Office indicated that the decision was made based on the fact that the bidder had erred in its fee quotation. We found the decision of the Office to pay higher fees questionable because:

- The selected firm had been given an opportunity to resubmit its quote and instead confirmed that it would stand by its original quote.

- The sole reason the firm was given the contract was due to its fee of 2.2 bp, as its performance was clearly below that of the incumbent manager.

## Post-selection Performance—Fixed Income Funds

Unlike the smaller diversified fund, where two fund managers were used in order to compare post-selection performance, the $800 million fixed income funds were not designed to have two managers for comparison and monitoring purposes.

For the money market fund, the Office indicated that the newly selected investment management firm had performed well based on a benchmark established to measure its performance. However, our review showed that this benchmark was based on the Scotia Capital 91-day T-bill Index. An index such as this is used to measure performance for investment in relatively risk-free treasury bills issued by the federal and provincial governments. Our examination of the investments made by the fund manager for the final quarter of the 2003/04 fiscal year found that about half the fund was invested in higher-risk corporate paper issued by the private sector. Since corporate money market investments carry a higher risk and accordingly yield a higher return than government T-bills, the government T-bill index was not an appropriate performance benchmark.

Our review of the Office's money market fund for the 2003/04 fiscal year noted that, despite half of the funds being invested in higher-yielding corporate paper, its performance was only 0.01% above the Scotia Capital 91-day T-bill Index, before investment management fees.

With respect to the bond fund, the Office had not established any benchmark to measure the performance of the fund. The Office indicated that it did not establish a performance benchmark because the bonds were intended to be held to maturity. In addition, the bonds being held in the funds were laddered with different maturity dates. Accordingly, the Office had not yet been able to identify appropriate performance indicators.

However, without appropriate performance indicators, the prudence of the decision to hold bonds to maturity cannot be determined. Performance factors also need to be taken into account when making future investment decisions. We therefore maintain that it would be beneficial to compare the actual performance of this fund against appropriate performance benchmarks accepted by the industry.

### Recommendation

**To enhance returns for its clients, when selecting money market investment managers the Office should:**

- **use an open, competitive tender process, such as posting requests for proposals for all significant contracts on the public electronic tendering system; and**
- **evaluate candidates based on a combination of performance and fees.**

**In addition, the Office should not pay fees higher than those agreed to when the contract was awarded.**

**Furthermore, the Office should establish appropriate indicators to measure the performance of its fund managers against appropriate investment benchmarks.**

***Office Response***

***The Office agrees with the Provincial Auditor as to the importance of achieving best value and promoting fair dealings and equitable relationships with the private sector. An open, competitive tender process is a key element in this, and the Office will ensure this occurs in the future.***

***As the report notes, the selected manager was subsequently permitted to raise its fees, but the fees were still lower than those of the other managers. The Office accepts the recommendation in the report that this fee adjustment should have been refused.***

***The benchmark selected by the Office for the money market fund is standard in the industry. A poll of six of the largest money market managers in the country, representing $20 billion of money market assets, disclosed that five managers consistently used this index, and one manager used one that was even lower.***

***No benchmark is in place for the bond fund because of its unique and simple structure. Investments are held to maturity. There are no suitable benchmarks. However, the bond fund manager is monitored to ensure that its actions are appropriate. Returns on the Office's bond fund have consistently exceeded returns earned on other types of fixed income instruments, such as guaranteed investment certificates and treasury bills.***

***The Office agrees that it is very important to have in place suitable benchmarks and metrics and will undertake to review and update them regularly.***

## Investing in the Diversified Fund for Individual Clients

Most clients of the Office do not have significant assets and do not qualify for investing in the diversified fund because of their cash requirements. Accordingly, any funds available for these individuals are deposited in the Office's fixed income funds to generate steady interest income.

Clients who have a significant amount of money that is not required for daily living and that will not be needed for at least five years are assessed for investing in the diversified fund. Before a client's funds can be invested in this higher-risk fund, a financial review has to be completed. The process requires that the financial review be prepared by a financial planner with input from a caseworker who is familiar with the client's circumstances. The resulting financial review has to be provided to both the caseworker and the caseworker's team leader to review the accuracy of the information and to approve the investment recommendations.

### *REVIEW AND APPROVAL PROCESS TO SELECT CLIENTS FOR INVESTMENT*

To assess whether only eligible clients were selected for the participation in the diversified fund, we reviewed the financial planning process performed by the Office. We requested that the Office provide us with the files of all clients who had at least $200,000 invested in the diversified fund from its inception in August 2000 until December 31, 2003. According to the Office, there were 50 incapable clients and 20 minors who had invested at least $200,000 in the fund. The Office had invested a total of $26 million on behalf of these clients in the diversified fund.

We noted evidence to support only three cases where financial plans of incapable clients had been provided to caseworkers for review. In only one of those cases were we able to see approval of the investment recommendations in the diversified fund by a team leader. Although the Office reminded staff by e-mail in late July 2000 to review, sign, and return the financial plans in physical form, we were informed that the staff were unclear as to what was required and were reluctant to submit written comments.

The Office indicated that procedures to require formal documented approval were not implemented until November 2000, although most of the clients' investments in the diversified fund were made in August 2000. Consequently, formal documentation of consultation on these earlier files was incomplete. As of March 2004, however, our audit indicated that no follow-up documentation of consultation on these files had been done.

We are concerned that without the proper input from individuals familiar with the circumstances of the clients and the approval of responsible team leaders, the investment plans might not be suitable for the clients.

**Recommendation**

**To ensure major investment decisions made for individual clients are appropriate and prudent, a proper process of consultation, review, and approval should be followed.**

***Office Response***

***The Office agrees with this recommendation and is now ensuring that files are properly documented after the consultation and review process has been concluded.***

## *SUITABILITY OF INVESTING IN THE DIVERSIFIED FUND*

### For Incapable Clients

To comply with the guidelines that a client's assets must be likely to be held for five years or more and that the client must be unlikely to require access to the capital in the near future, the Office is required to properly assess the suitability of clients with respect to their health and age before assets can be invested in the diversified fund.

We reviewed the health and age assessments performed by the Office on the 50 incapable clients who had been selected to invest in the diversified fund. Our review showed that many of these clients were over 80 years old. However, most of the assessments were based on assumptions of good health and, according to the Office, on Canadian life-expectancy statistics that state "a person aged 90 can expect to live five more years; a person aged 85 can expect to live six more years, and a person aged 80 can expect to live nine more years."

It is inappropriate to make investment decisions for individual clients based only on such general assumptions of life-expectancy statistics. A more acceptable and prudent approach would be to carefully assess the health of incapable clients on an individual basis. In fact, our review of these 50 clients noted that almost half of them died within three years of their funds being invested. The average age of the clients who died was 82, and their average age was 80 at the time their initial investments were made.

### For Minor Clients of the Accountant of the Superior Court

The 1999 guidelines require that a client's assets must be available to be held for five years or more and that the client must not require access to the capital in the near future; therefore, the Office stipulates that deposits in the court for minors can be invested in the diversified fund only for children 12 years of age or younger. This is because clients are generally entitled to their funds once they reach 18 years of age. Because minors often become clients as a result of serious injuries from accidents and have significant health problems, the Office requires an assessment of their health before their funds are invested in the diversified fund.

Our review of the 20 minors who had at least $200,000 invested in the diversified fund noted a number of instances where the Office's investment guidelines were not followed:

- Sixteen of the 20 clients did not have the required health assessment or their status was assessed as "unknown."
- Nine (45%) of the 20 clients were not 12 years of age or younger at the time their funds were invested and three of them were 15 years or older.
- Under the "Special Consideration" section of the assessment form, Office staff were instructed to obtain relevant information (for example, a related adult's views) for the financial review. We noted that no parents or guardians were consulted to obtain relevant information regarding the situation of their children.

The Office indicated that the Office of the Children's Lawyer had been contacted for relevant information concerning the children. However, we noted that in response to the information request for investment purposes, the Children's Lawyer stated, "I am questioning whether we're adding value to the process. There are many minors with money in court where we have had no involvement at all. Where we have a file for the minor, we don't often know anything about the minor and the family beyond what you can already tell from the account history, for example, if regular child support was being paid out."

**Recommendation**

**To minimize the risk of financial losses to clients because of short-term market fluctuations, the Office should improve its review, oversight, and approval processes and ensure that its current investment guidelines are being adhered to.**

***Office Response***

***With respect to incapable adults, the Office conducts a review of each client's health status before developing a financial plan for the client's investments. Life-expectancy data are used only as guidelines for assessing age as a risk factor. However, the Office agrees that its process for assessing and documenting health status requires improvement and is taking steps to ensure that this takes place.***

***With respect to clients who are minors, since 2003 the Office has communicated with parents/guardians about how their children's funds are invested. When considering investments in the diversified fund, the Office advises parents/guardians and requests any relevant information, including information on health issues and financial needs.***

### *ASSET ALLOCATION*

To comply with the *Trustee Act* as amended in July 1999, a trustee must diversify the investment of trust property. According to the Investment Fund Institute of Canada

(IFIC), "not putting all one's eggs in one basket" is the key to successful investing. The IFIC advises potential investors that prudent investment strategies should include allocating assets among cash, fixed income investments, and stocks.

As investors grow older, the IFIC recommends that the fixed income portion of their investments in relation to stocks be increased. The rule of thumb is to invest 100% minus their age in stocks: for example, a 70-year-old should have no more than 30% of his or her investments in stocks. In addition, investors should adjust their asset mix according to their individual risk tolerance. Proper asset allocation allows investors to optimize returns and minimize the risk of losses due to fluctuations in the stock markets. It is more important for senior investors because of their advanced age—by and large, they have a shorter investment time-horizon to recover from a downturn in the stock market.

The Office has a policy in place requiring its staff to periodically review clients' assets to ensure appropriate allocation. However, the Office in general did not appropriately diversify and allocate assets of clients in a manner similar to the IFIC rule-of-thumb guidelines. For example, for the 22 clients we reported on earlier who died within three years of their funds being invested in the diversified funds, we found that half of all their holdings were in stocks instead of only 20%, as suggested by the IFIC guidelines at the time of the investment.

As well, our examination of clients' files revealed that there had been no disposal of any stocks owned by the clients in order to reduce the risk of overconcentration. Even in cases where we noted that the Office's financial planners had advised that stocks should be sold, such recommendations were not followed. Consequently, some clients who died incurred financial losses because their significant stockholdings were not diversified. The Office had ample time to diversify their assets because these clients had all been with the Office for at least three years at the time of their deaths.

For example, an elderly client whose health was assessed as "fair to poor" had one stockholding that was worth over $3 million, representing more than 80% of the client's assets when the Office did a financial assessment of the client's asset mix in early 2000. We noted that the recommendation of the financial planner to sell at least 75% of this stockholding was never implemented. As well, in August 2000, the Office invested an additional $400,000 of the client's remaining cash in the diversified fund. The decision to invest more of the client's assets in the fund effectively increased this client's exposure to the stock market to over 90% of the client's total assets, when the general rule suggested by IFIC was no more than 12%. By the time this client died three and a half years after the recommendation to sell, the Office had not disposed of any portion of the client's stockholding, and the total stockholdings' market value had fallen from its August 2000 value by over 80%.

**Recommendation**

**To ensure clients' assets are not exposed to undue risk, the Office should regularly review client portfolios and act on a timely basis on recommendations from financial planners with respect to such portfolios.**

***Office Response***

***The Office agrees with this recommendation. The staff complement of financial planners has been increased, and recommendations from financial planners are being responded to in a timely manner. A plan for regular review of client portfolios is being developed, beginning with those portfolios at higher risk.***

## CHARITABLE PROPERTIES PROGRAM

Canada's Constitution gives the provinces responsibility for supervising charities to ensure that charitable assets are used for charitable purposes. The federal government's authority over charities comes primarily from the *Income Tax Act*. That Act makes registered charities exempt from the payment of income tax and allows them to issue receipts for donations. The Charitable Properties Program of the Office protects the public's interests in charitable properties in Ontario by reviewing applications of organizations wanting to incorporate as charitable corporations, investigating complaints and concerns about the use of charitable assets, and conducting litigation to protect the public's interest regarding charities. The principal provincial act that governs the Office's roles and responsibilities in overseeing charitable assets is the *Charities Accounting Act*.

Our review indicated that adequate procedures were in place to review applications for the incorporation of charitable organizations and to handle complaints in a timely manner. However, we noted weaknesses in following up on the status of charities that had been deregistered by the Canada Revenue Agency (CRA) to protect the public's interests. Specifically, the Office was not adequately fulfilling its mandate to ensure that prior donations to deregistered charities were distributed to intended beneficiaries or transferred to successor charities.

Registered charities are required to file an annual return with the CRA and must meet certain requirements of the *Income Tax Act* concerning their expenditures and activities. Periodically, the CRA decides that some charities are to be deregistered from their charity status, meaning that these charities can no longer issue tax deduction receipts to their donors. A charity could be deregistered for various reasons, such as dissolution or the failure of the charity to comply with legislative requirements, including the filing of annual returns on a timely basis. The names of charities deregistered by the CRA are published in the *Canada Gazette*.

In September 2003, the Office initiated a special project by sending letters to about 350 Ontario charitable organizations out of 1,100 that had been deregistered by the CRA between July 2002 and July 2003. The organizations were asked to give the reasons for the revocation of their charitable status and the steps they were taking to wind up operations. They were also asked to provide their proposed plan to distribute their charitable property to charitable beneficiaries or successor charities. More than 300 of these organizations did not respond to the requests.

At the completion of our audit in March 2004, the Office had not made plans to follow up on over 1,000 deregistered charities to ensure that their charitable assets were properly distributed to beneficiaries or transferred to successor charities in order to prevent misuse or misappropriation.

As well, the *Income Tax Act* permits the CRA to release letters explaining the reasons for deregistration on request. A review of the CRA's reasons would enable the Office to target its investigation efforts on organizations that have a high risk of misusing or misappropriating their charitable property. However, we noted that the Office had never requested any such information with regard to the deregistered Ontario charities.

### Recommendation

**To ensure charitable assets are distributed to intended beneficiaries or successor charities, the Office should review the Canada Revenue Agency's reasons for deregistering charities on a timely basis and immediately follow up on any organizations that may represent a higher risk of misusing or misappropriating their charitable donations.**

### *Office Response*

***The Office is consulting with the Canada Revenue Agency to obtain information on those Ontario charities that have been deregistered for cause and where there is some reason to suspect that charitable property might be at risk. Receipt of this information will enable the Office to implement this recommendation.***

# 3.02–Human Resource Renewal

## BACKGROUND

As at March 31, 2003, the Ontario Public Service (OPS) had the equivalent of 63,595 full-time employees who were delivering public services through 30 government ministries and offices. Salaries, wages, and benefits paid to or on behalf of these employees for the 2002/03 fiscal year amounted to almost $4.4 billion, or 6.5% of total government expenditures of $67 billion.

At the time of our audit, Management Board Secretariat (MBS), in particular its Human Resources Division (Division), was responsible for the effective management of human resources (HR) in the OPS. A key goal of the Division was to promote the renewal of the OPS workforce to ensure that people with the appropriate skills are in place to do the current and future work of the government. Subsequent to our audit, these responsibilities were assumed by the newly formed Centre for Leadership and Human Resource Management (Centre).

For the past decade, the government has been working towards a vision of a smaller public service that focuses on its core businesses. Initiatives following from this agenda have included early retirement opportunities, downsizing, and local services realignment, whereby the responsibility for a number of government functions was transferred to local governments. Another key strategy has been alternative service delivery (ASD), which typically involves the contracting of services formerly delivered by a government office or agency to a third party. MBS has estimated that more than 75 ASD initiatives have been implemented across the government.

The effect of restructuring and of transferring some service-delivery responsibilities has been significant. Between 1995 and 2000, the size of the OPS declined from 81,250 to 61,800 full-time-equivalent employees—a decline of 24%—and has remained close to that level since that time.

In the late 1990s, recognizing the challenges government employees were facing in their new work environment as well as the need to ensure government employees could continue to provide quality public service into the 21st century, MBS, in consultation with ministry managers and human resource specialists, developed a human resources strategy for the OPS entitled *Building Tomorrow's Workforce Today: A Human Resources Strategy for the Ontario Public Service* (1999 HR Strategy). The 1999 HR Strategy aimed to reaffirm the value of public service, build on its strengths, and ensure workforce capacity—now and into the future—by outlining a number of actions needed to renew the OPS. In 2001, MBS built upon the 1999 HR Strategy by developing and issuing a renewal initiative entitled *Renewing and Revitalizing Our Workforce: A Report on an Action Conference for OPS Managers* (the 2001 R&R Initiative).

## AUDIT OBJECTIVE AND SCOPE

The objective of our audit was to assess whether the government had adequate policies and procedures in place to ensure that the OPS human resource renewal and revitalization strategies and policies were being implemented effectively to achieve its goals and maintain and improve the quality of services provided to the public.

We identified audit criteria to address our audit objectives. These were reviewed and accepted by senior officials at MBS and further reviewed with other ministries we visited. Our audit work covered the period to March 31, 2004. The scope of our audit included discussions with MBS and ministry staff and a review and analysis of relevant policies, procedures, and related documents at MBS and at the ministries of Community Safety and Correctional Services, Health and Long-Term Care, and Agriculture and Food. We also met with a number of union and bargaining agent representatives.

In addition to our interviews and fieldwork, we surveyed approximately 2,300 OPS employees, selected randomly from across the Ontario public service and covering all ministries and occupational groups except for the senior management group (SMG), asking for their views on a number of human resource-related issues. We consulted both MBS and the government's bargaining agents and union representatives in developing our survey. We were very pleased with the 50% response rate for our survey and appreciated the input provided by employees.

We also employed a number of computer-assisted audit techniques to analyze corporate human resource data available in the government's Workforce Information Network and corporate payroll systems.

Our audit was conducted in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances. We did not rely on MBS's internal auditors to reduce the extent of our procedures because they had not conducted any recent work in the areas covered by our audit.

# OVERALL AUDIT CONCLUSIONS

While the government, in its 1999 HR Strategy, has recognized the critical issues that need to be addressed, it has not sufficiently implemented the necessary renewal and revitalizations strategies to achieve its goals. Several years of downsizing combined with hiring restrictions and weak efforts to promote the OPS as an employer of choice have resulted in a workforce that is considerably older than those in other Ontario workplaces. Insufficient progress has been made to address this demographic problem or to ensure the skills and competencies needed in the workplace now and in the future are being identified and obtained.

The delivery of essential public services may be at risk if strategies to acquire needed skills and to recruit younger workers are not implemented soon.

One of the key ingredients to achieving success will be the need to ensure management at the ministry level is equally as accountable as the Centre for Leadership and Human Resource Management for the achievement of corporate HR goals.

Some of our major concerns were:

- Despite the stated intention in the 1999 HR Strategy to strategically address OPS skill shortages and the aging workforce, no subsequent initiative—other than an internship program aimed at recruiting young university and college graduates—has addressed the specific skill shortages noted therein, and the average age of public service employees has continued to rise at approximately the same rate as before the strategy was developed. It now stands at 43.3 years of age, up from 42.8 in the 1999/2000 fiscal year. As well, younger people are not being hired into the OPS in sufficient numbers, with fewer candidates being hired into the internship program and fewer placements being found for those completing the program.
- The government is not sufficiently prepared for the upcoming retirements of significant numbers of its employees. For example, while 41% of staff in the senior management group (SMG) will be entitled to retire within the next ten years, only seven of the 21 ministries have reported completing a succession planning process for their critical leadership positions. We noted that 249 retirees, representing 18% of total retirements from the OPS in 2002/03, were rehired back into the OPS in 2002/03.
- While the vast majority of public servants we surveyed feel that their work makes an important contribution to the people of Ontario and find their work both interesting and challenging, 32% are dissatisfied with their job. One significant source of dissatisfaction was the lack of career development opportunities. Our work indicated that only one in every 67 employees received a promotion last year, which may be indicative of an employment environment with minimal opportunities for advancement.

- Over the past decade there has been a trend in the OPS to hire new staff into unclassified (contract or temporary) positions rather than classified (permanent) positions—a trend that is at odds with the 1999 HR Strategy goal of developing and retaining a new generation of public administration. Unclassified staff now comprise 17.7% of the OPS workforce, almost double the 9.1% rate of 1995/96. Of the 11,142 employees hired in the 2002/03 fiscal year, 9,951 or 89% were hired as unclassified staff. As our survey confirmed, unclassified staff are more difficult to retain: 55% of survey respondents in unclassified positions intended to leave the government, while only 32% of respondents in classified positions had the same intention.
- The HR strategic planning and reporting process was weakened by a lack of ministry accountability for achieving corporate HR goals, the absence of benchmarks for assessing progress on the corporate renewal and revitalization outcomes and related performance measures, and the lack of consolidated reporting on the government's overall progress in meeting its HR goals.
- Despite the government's commitment to rebuild the OPS as a learning organization, there was little assurance that employees were receiving the training and development they need. Insufficient information is available both centrally and at ministries to determine the level of training provided to employees or whether it is cost effective.
- While the government work environment appears to promote wellness generally, with most employees we surveyed indicating they can adequately balance their work with their personal and family needs, the amount of paid overtime worked by government employees has more than doubled since 1999/2000. As well, an estimated 12 days annually per employee were lost due to absenteeism, and the government's Attendance Support Program (ASP), which is directed at working with employees with significant absences, could be improved.

### Overall Centre Response

***The appointment in April 2004 of a Deputy Minister and Associate Secretary of the Cabinet with responsibility for human resource strategy and delivery illustrates the importance the government is placing on the work and people of the OPS. The OPS Human Resource function is being transformed to enable the organization to focus on strategic policy and operational capacity.***

***As such, the Centre finds the Office of the Provincial Auditor's report particularly timely and helpful. We recognize and appreciate the Auditor's attention to human resources in the OPS, the articulation of structural and accountability issues, and the comprehensiveness of the recommendations. In fact, we are pleased to report that we have a number of initiatives currently in progress that will address some of the recommendations and that other initiatives are in the program development stages.***

# DETAILED AUDIT OBSERVATIONS

## THE RENEWAL AND REVITALIZATION STRATEGIES

Workforce planning linked to business goals is one of the tools organizations use to determine their future workforce needs and to develop strategies for filling these needs. Such efforts, with government leaders setting the overall direction and goals, are needed to identify the critical skills and competencies an organization requires, and to ensure these skills and competencies are maintained within the organization on a continuous basis.

The cornerstone workforce planning document for the OPS is its 1999 HR Strategy, which identified the following five most significant human resources challenges facing the government:

- skills gaps and shortages;
- an increase in demands on the workforce;
- demographics;
- lack of organizational flexibility; and
- the need to make the OPS an employer of choice.

To provide a foundation for renewing and revitalizing the OPS, the need for action in the following three areas was identified: understanding the work and the workforce, investing in learning and development, and updating human resource policies.

A number of positive developments followed from the 1999 HR Strategy. For example, MBS developed new human resource policies dealing with staffing, performance management, and learning and development. In 2001, MBS built upon the 1999 HR Strategy by developing the 2001 R&R Initiative. This initiative identified five corporate renewal and revitalization outcomes and established corresponding performance measures, as outlined in the following table.

**MBS's 2001 Revitalization and Renewal Initiative—**
**Outcomes and Measures**

| Desired Outcome | Performance Measure |
|---|---|
| pride in quality public service | percentage of employees leaving voluntarily because of job dissatisfaction |
| dynamic leadership | percentage of critical leadership positions with up-to-date succession plans |
| learning organization | percentage of employees with learning and development plan objectives achieved |
| motivating and flexible work environment | percentage of work days lost due to illness, injury, etc. |
| capable and innovative workforce | percentage of OPS customers satisfied with OPS services |

*Source of data: Management Board Secretariat*

Ministries were expected to incorporate these measures into their own HR planning and reporting processes.

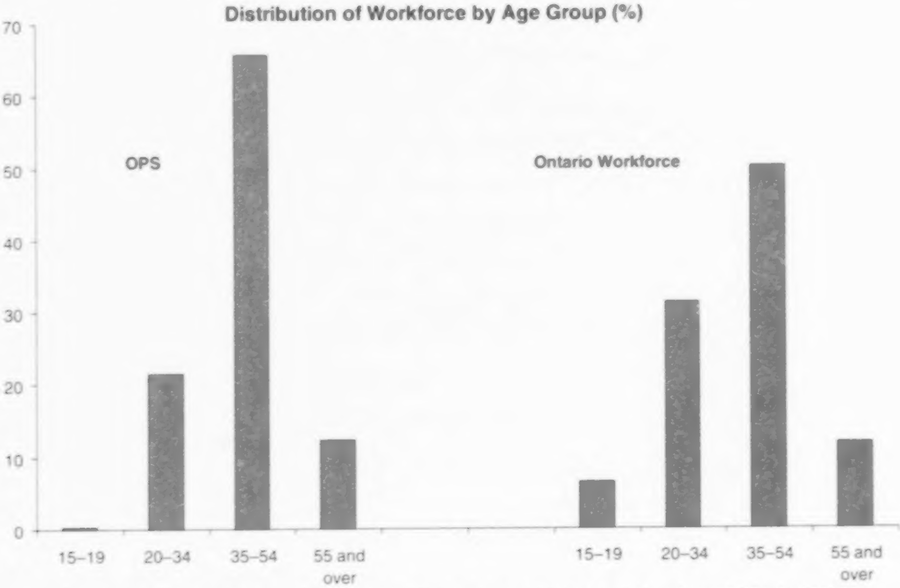
## THE OPS WORKFORCE

Over the next two decades, the demographics of the Canadian workforce will change dramatically. Specifically, the upcoming retirement of the baby-boom generation—those born between 1947 and 1966—is creating an urgent need to attract and retain a new generation of managers and staff. This is especially true for the public service.

The Institute of Public Sector Administration of Canada (IPAC) conducts a biennial survey of all federal, provincial, and territorial deputy ministers and selected municipal chief administrative officers to identify the key issues facing managers in the public service. In its 2002 survey, respondents indicated that their single most important concern was the need for human resource renewal. Specifically, public service executives were concerned about their aging workforces and how this will affect the future delivery of quality public services. In this regard, IPAC survey respondents cited the following as important actions to be taken: developing aggressive public-sector recruitment strategies, marketing public-sector organizations as good places to work, addressing morale and re-skilling issues, and transferring essential knowledge from older employees to the new generation of public servants.

The problem of an aging Canadian workforce is especially significant for the OPS. For example, while the latest data available from Statistics Canada indicates that 15% of the Canadian workforce as a whole will be eligible for retirement between the years 2010 and 2020, our analysis of the Ontario government's employee database indicated that over this same 10-year period, more than 35% of OPS employees will be eligible to retire. This is in addition to the 14% of OPS staff that will be eligible for retirement before 2010. In total, we estimate that approximately half of the OPS's workforce will be eligible for retirement by 2018. For staff in the senior management group (SMG), retirements will occur even earlier: we estimate that 41% of SMG staff will be entitled to retire within the next ten years.

The following bar graph illustrates the imbalances in terms of age distribution between the OPS workforce and that of the Ontario workforce as a whole. As indicated, the gap between the percentage of workers in the 20–34 age range and the percentage of those in the 35–54 age range is much greater in the OPS than for the Ontario workforce.



Note: Data for the Ontario Workforce is for 2001 (the most recent data available), and data for the OPS is for 2002/03.

*Sources of data: Statistics Canada and Management Board Secretariat*

At the time of our audit, MBS was well aware of the need to address the OPS's aging workforce: the issue of demographics was highlighted in the 1999 HR Strategy as one of the government's five key challenges. The Strategy noted, for example, that the baby-boom generation made up 30% of the Canadian population but over 70% of the OPS workforce, while the under-30 age group was significantly underrepresented. As the Strategy indicated: "…demographics highlight the urgent need for both knowledge retention and youth recruitment strategies."

Despite the fact that demographics issues have been of concern since at least 1999, we noted no evidence of progress in actually rebalancing OPS's demographic profile. The government has not set any demographic targets, nor do guidelines exist that might, for example, inform ministries' ongoing hiring practices. None of the five strategic outcomes or corresponding performance measures developed in the 2001 R&R Initiative directly addresses OPS demographics. Our analysis indicates that the OPS continues to age, as detailed in the following table, at approximately the same rate as for the five-year period preceding the development of the 1999 HR Strategy.

**Average Age of OPS Staff, Selected Years, 1995/96–2002/03**

| | 1995/96 | 1999/2000 | 2002/03 |
|---|---|---|---|
| classified (permanent) staff | 42.8 | 43.9 | 44.4 |
| unclassified (temporary) staff | 38.1 | 37.7 | 38.8 |
| OPS | 42.2 | 42.8 | 43.3 |

*Source of data: Management Board Secretariat*

## Identified Skills Shortages

While the 1999 HR Strategy noted skills gaps and shortages as one of the five key HR challenges to address, the subsequent 2001 R&R Initiative did not address this adequately. Skill shortages were noted to exist in such areas as labour relations, policy, financial/business analysis, audit and risk analysis, service contract management, project management, information technology and systems support, and communications. However, none of the revitalization and renewal outcomes or corresponding performance measures directly address these shortages, and there has been no subsequent reporting on whether or how skills gaps were being addressed, whether they were still significant, or whether new skill shortage areas had emerged.

## Succession Planning

Because over 40% of the OPS senior management group will be eligible for retirement in the next 10 years, the government will be faced with substantial knowledge and managerial gaps across a multitude of different program areas unless strategies to manage this retirement wave are developed. Clearly, succession planning is a very important component of the management and renewal of the government's human resources. The government needs to recruit management talent and identify potential candidates within its own middle management cadre and provide the training and development opportunities they need to be ready to lead the OPS of the future.

Despite requirements outlined by MBS that succession plans be prepared to address all critical leadership positions, in their HR reporting to MBS, only seven of the 21 ministries indicated they had completed a succession planning process and had developed such succession plans. Of these, we noted that two had simply identified all senior management group (SMG) positions as being critical and pointed to a general "pool" of middle management talent from which replacements would be drawn. The remaining 14 ministries reported either being at an earlier stage in the process or having not yet commenced this work.

While the focus to date has been on succession planning for the SMG, it should be noted that many positions critical to the effective delivery of government services are outside of the SMG or do not have a leadership component. Though succession planning is equally important for these positions, we noted no efforts in this regard.

### REHIRING OF RETIREES

Our analysis indicated that in the 2002/03 fiscal year 249 retirees (former OPS employees) were rehired back into the OPS. That number represents approximately 18% of total retirements from the 2002/03 fiscal year (in 2002/03, there were 1,414 retirements from the OPS). The need to rehire such a significant number of retired employees is indicative of inadequate succession planning and of critical skills shortages.

## Recruitment

One factor contributing to the aging workforce is that younger employees are not being hired in sufficient numbers. The government's corporate 1999 HR Strategy appears to have had no impact on actual hiring practices, which take place at the ministry level as staffing needs arise.

Our analysis indicated that for 2003, the average age for new hires into the SMG was 48.6 years of age, equal to the 48.6 average age of existing SMG staff. The average age for new classified staff members was also quite high at 37. Currently, only 12% of the OPS workforce is under 30, while the latest data available from Statistics Canada (2001) indicates that approximately 29% of Ontario's workforce is in this age group.

While the 2001 R&R Initiative does provide a framework for future recruitment practices, government downsizing initiatives, hiring freezes, and imposed controls on the number of staff positions have made it difficult for ministries to put this framework into practice. As well, no clear principles, targets, and measures for recruitment had been set. None of the ministries we visited had conducted an analysis to determine their short- or long-term recruitment requirements or had plans in place to address future staffing needs. Rather, recruitment continues to be done on a reactive or ad hoc basis.

### ATTRACTING APPLICANTS

To successfully recruit younger staff into the OPS, measures must be taken to attract qualified people. The Conference Board of Canada, in presenting ways to improve the ability of the public service to attract talent into its ranks, stressed the need for an improved image of the public sector through more effective marketing of it as a positive career choice and a great place to work. It also stressed the need for government to become more engaged in student employment programs and on-campus recruiting.

We noted that the federal government recently piloted an e-recruitment project and is introducing a national information system to allow government managers to access a government-wide database of prospective job candidates. The system—designed to save time and improve the prospects of finding applicants with the most appropriate set of skills for available jobs—will house the resumés of all applicants for a period of time.

We also noted that the federal government recently invested in its image as a prospective employer, launching marketing initiatives covering a number of employment and career and training opportunities. While the Ontario government has recognized the need to invest more in this area and, in early 2002, developed an OPS promotional strategy, apart from the production of a brochure promoting the OPS as a career choice, the project has accomplished little to date, primarily due to current funding constraints.

### *ONTARIO INTERNSHIP PROGRAM*

The only corporate employment initiative specifically aimed at the recruitment of young people into the OPS is the Ontario Internship Program, under which, since 1999, between 100 and 150 new university or college graduates have annually been hired into management-entry positions under two-year contracts. With regard to this program we noted the following problems:

- Given its small size (100–150 positions represent less than 0.25% of the OPS workforce), even if all interns were successful in obtaining classified OPS positions, the effect on the government's overall government demographic profile would be minimal.
- As the following table indicates, the percentage of interns who have been appointed to government positions following their internship period (the retention rate) has dropped below 70%.

**Retention Rate of the Ontario Internship Program, 1999–2001**

| | 1999 | 2000 | 2001 |
|---|---|---|---|
| interns entering program | 103 | 104 | 103 |
| interns subsequently appointed to government positions | 79 | 69 | 71 |
| retention rate | 77% | 66% | 69% |

*Source of data: Management Board Secretariat*

- The majority of interns who have secured jobs to date have been appointed to temporary, unclassified positions. We understand this is primarily due to the current lack of permanent job opportunities in the OPS.
- As at February 2004, 73 of the 148 interns hired into the 2002 program had not yet been able to secure a government position, and these contracts were to expire shortly. The 2002 program had already lost a number of its interns, who responded to external job offers. Accordingly, the actual retention rate for the year will likely be considerably less than 50%.
- Due to fiscal pressures, the 2004 program was reduced to allow for only 75 interns.

**Recommendation**

**To ensure the Ontario Public Service (OPS) has the long-term capacity to continue to provide quality public service:**

- **the Centre for Leadership and Human Resource Management should:**
  - **assess the government's long-term staffing needs and develop an action plan to fulfill these needs (this should involve an analysis of the skills needed to manage the current and future work of the OPS and the development of demographic targets for the OPS);**
  - **expand efforts to promote the provincial government as an employer of choice for young people entering the job market and consider the development of an e-recruitment program; and**
  - **work with ministries to expand the Ontario Internship Program or develop other youth recruitment programs; and**
- **ministries should develop comprehensive succession plans that identify all critical positions, the timing of when such positions will need to be filled by new staff, how such positions can and will be filled, and the training and development required to prepare a new generation of staff for these positions.**

***Centre Response***

***The environment of the Ontario Public Service (OPS), and indeed of all public services, has become increasingly more complex. Therefore, a top priority is renewal and revitalization to ensure a vibrant future. Renewal means ensuring that employees have the skills to respond to the changing role of government. Revitalization means planning ahead to ensure that there will always be a future generation of skilled employees.***

***The Centre has a number of initiatives underway to address skill, competency, and demographic challenges in the OPS. Three key strategies are designed to address parts of this recommendation, as follows.***

***The OPS is developing an integrated talent management strategy to replace the current succession management program for senior managers for implementation in the 2005/06 fiscal year. Talent management is the ongoing process of systematically identifying, assessing, and developing talent to ensure that leadership capability for all key positions continues to be available and developed.***

***A key foundation of organizational transformation over the longer term is the development of a single, overarching recruitment strategy. This recruitment strategy will refine and streamline hiring practices, enhance our competitive advantage, and ensure the OPS remains attractive as a potential employer. An assessment of the skills required to deliver results is developed at the ministry and program level, and the related tools and supports are to be developed at the corporate level. As well, our plan is to include an e-recruitment component to support the strategy.***

**_As part of the modernizing of our recruitment practices, in 2004/05, the OPS will develop and begin implementing a Young Professionals Employment Strategy to expand and build upon the success of the Ontario Internship Program. The strategy will encompass a set of initiatives aimed at co-ordinating strategic human resources planning activities and supporting programs that facilitate youth (and new professional) attraction, recruitment, development, and retention._**

## Staff Retention

Merely recruiting good people is not enough. An equally challenging task is to motivate existing staff to stay by providing interesting work, competitive pay and benefits, and career development opportunities.

### *SURVEY OF OPS EMPLOYEES*

The survey we conducted of OPS staff addressed such matters as the nature of employees' jobs, their workplace environment, their classification, their training and development, and their overall job satisfaction. However, because of ongoing negotiations, bargaining agents and union representatives as well as management at MBS requested that compensation issues be excluded from our survey. Most respondents answered all of our questions, and many provided supplementary observations.

There is much good news in the survey in that results confirmed that most government employees are committed to their chosen profession, enjoy their jobs, and have a keen desire to make a difference in the lives of Ontario's citizens. However, there were a number of areas where a significant number of government employees expressed dissatisfaction. The following table outlines a selection of results.

**Selected Results from Our Survey of OPS Employees**

| Strengths to Build Upon | Areas of Dissatisfaction |
|---|---|
| • 95% of respondents clearly felt that they understood their job role<br>• 92% felt the work they do makes an important contribution to the people of Ontario<br>• 88% found their job interesting and challenging | • 52% of respondents did not believe they were afforded sufficient opportunity to advance their career<br>• 49% of employees did not believe that rewards were based on merit<br>• 39% did not believe they were classified fairly<br>• 37% said their departments did not support career development |

*Prepared by the Office of the Provincial Auditor*

## Drivers of Job Satisfaction

A common axiom in human resources is that the happiest employees tend to be the best-performing employees. Studies also link employee satisfaction to customer satisfaction, as satisfied employees are more dedicated to their jobs and provide better customer service. Accordingly, a key goal of human resource management is to foster employees who are satisfied with their employer, their working conditions, and their jobs.

In our survey we directly asked employees to assess their overall job satisfaction, and 32% of employees reported that they were not satisfied with their job. This represents a significant minority that should be of concern to management. Major reasons cited by these employees for overall job dissatisfaction were the lack of career advancement opportunities, organizational constraints that prevented adequate client service, and poor relationships with co-workers or with their manager.

Satisfaction is a nebulous concept and is shaped by many factors and influences. Accordingly, to improve employee job satisfaction, management must know what most contributes to it. In an attempt to determine this more precisely, we correlated each employee's overall reported satisfaction with his or her responses to all other survey questions to identify the most statistically significant satisfaction *drivers*.

As a result of our analysis, we were able to identify 10 statistically significant drivers of employee satisfaction. For five of these, the correlations were very high; accordingly, we have classified these drivers as *strong*. Of the remaining five, four have been classified as *medium*, while the final one, although still statistically significant, has been classified as *weak*. The following table outlines the results of our analysis.

**Job Satisfaction Drivers Identified from Survey of Employees**

| Satisfaction Driver | Driver Strength |
|---|---|
| job provides opportunities to make good use of skills and abilities | Strong |
| job is interesting and challenging | Strong |
| work is personally satisfying | Strong |
| work-related stress levels are manageable | Strong |
| job provides opportunities to develop and improve career-enhancing skills | Strong |
| job workload is reasonable | Medium |
| work arrangements are flexible | Medium |
| department is adequately staffed | Medium |
| there are opportunities for career advancement | Medium |
| job requirements can be balanced with personal and family needs | Weak |

*Developed by the Office of the Provincial Auditor*

Other jurisdictions, such as British Columbia and Manitoba, have conducted workplace and job satisfaction surveys with similar results. Although some of the above drivers may appear obvious, it should be noted that many other job areas covered in our survey surprisingly did not show a significant statistical correlation with overall job satisfaction. For example, we found that the following factors did not correlate with employees' level of job satisfaction: physical working conditions; the provision of adequate technology and equipment to do the job well; a clear understanding of the job, of the department's goals, and of the ministry's vision; a say in decisions and actions impacting one's work; and sufficient management direction.

### *STABILITY OF EMPLOYMENT*

Over the past decade there has been a trend in the OPS to hire new staff into unclassified (contract or temporary) positions rather than classified (permanent) positions. Unclassified contracts are often renewed a number of times, with employees thereby continuing in an unstable employment relationship for a number of years, assuming they do not accept another job with more favourable employment prospects. As the following table illustrates, the percentage of unclassified or contract staff in the OPS has almost doubled since 1995/96.

**OPS Employee Composition, Selected Years, 1995/96–2002/03**

| | 1995/96 | 1999/2000 | 2002/03 |
|---|---|---|---|
| classified staff | 68,672 | 52,335 | 51,209 |
| unclassified staff | 6,983 | 8,482 | 11,250 |
| **OPS full-time equivalent staff*** | **76,732** | **61,800** | **63,595** |
| unclassified as a percentage of OPS staff | 9.1% | 13.7% | 17.7% |

* OPS full-time equivalent staff includes classified and unclassified staff as well as other staff, such as those at selected Crown corporations.

*Source of data: Management Board Secretariat*

Our analysis indicates that current hiring practices continue to reflect this trend. Of the 11,142 new employees hired into the OPS in the 2002/03 fiscal year, only 1,191 (11%) were hired into the classified service. Over the same period, 2,865 classified staff exited the OPS.

Our work suggests that this trend is the accumulated result of individual staffing decisions made at the ministry level in response to pressures in managing their operations within the context of budgetary, head-count, and hiring constraints rather than a deliberate shift in the government's HR strategy.

The use of unclassified staff undoubtedly has the advantage of providing management with greater flexibility in adjusting staff levels as business needs change or in terminating unproductive staff. However, there are longer-term implications to this approach to filling staffing needs. For example, managers may be more reluctant to invest in training, particularly longer-term developmental training, that is required to ensure such employees provide optimal service. The government also has far greater difficulty retaining unclassified staff. In responding to our survey, 55% of unclassified staff indicated their future intention to leave, while only 32% of classified staff stated the same intention. Satisfaction with the job itself was not a factor in this difference as unclassified staff actually reported higher levels of job satisfaction than classified staff.

It is difficult to reconcile the government's significant movement toward the use of unclassified staff with its stated HR goals. Citing a federal study indicating the public sector is not a preferred career path for most recent graduates, the 1999 HR Strategy noted: "Attracting people with the skills we need and retaining a new generation of public administrators will remain a challenge until we can reposition the OPS as an employer of choice." Offering the vast majority of new entrants into the OPS only temporary employment opportunities does not appear consistent with this vision.

## CAREER DEVELOPMENT AND ADVANCEMENT

Opportunities for career development and advancement are key in attracting and retaining employees. However, fewer than half of OPS employees we surveyed believed that they had sufficient opportunity to advance in their career. Almost 40% also believed that their department did not support career development or advancement or that they had no opportunities to develop and improve the skills needed to enhance their career. In fact, over a third of respondents were planning to leave the government, and the two major reasons for wanting to leave were to pursue better career opportunities and to seek better compensation. Our analysis work indicated that in the 2002/03 fiscal year there were fewer than 1,000 promotions in the OPS. This approximates one promotion for every 67 government employees, indicating that most careers in the OPS advance at a very slow rate.

As the number of government promotions is few, it is all the more important to provide other career enhancement opportunities for employees. These can include lateral moves, temporary assignments or special projects, and secondments to other organizations. The results of our survey of OPS employees confirmed the potential for using such opportunities to improve employee satisfaction, particularly with employees who have been with the government for some time. Specifically, employees who had been with the government for five or more years reported relatively high dissatisfaction rates in the areas of workload and work-related stress. However, this was not the case for respondents who had been in their current position for less than three years, even if they had been in the public service for a much longer period. Such employees were also more optimistic about their future prospects. For example, 60% of respondents who had been in their current position for less than three years felt they had reasonable opportunities for career advancement, while only 43% of respondents with more than three years in the same position felt the same. After 10 years, the rate dropped to 37%.

### *UNION AND BARGAINING AGENT RELATIONS*

Another factor influencing employee satisfaction and staff retention is the nature of the ongoing relationship with employee representatives. It is generally acknowledged by both management and employee representatives that their current relationship is strained. As part of our audit, we met with a number of union and bargaining agent representatives to ascertain the human resource issues of greatest concern to their members. They identified the following as key concerns:

- the increased use of consultants, unclassified staff, or temporary-help services to conduct government work that in their view should be done by permanent employees in classified positions;
- the government's job classification system, which they indicated was antiquated and badly in need of a major overhaul to reflect the changing nature of government work;
- the current dispute-resolution processes, which they find unwieldy and which have led to several thousand outstanding cases (pre-litigation mechanisms, such as ministry-level review committees empowered to resolve disputes at earlier stages,

could, in their view, resolve many of these matters at considerably less expense and with fewer detrimental effects on employee morale);

- the confrontational rather than collaborative approach they perceive the government takes in dealing with employee representatives; and
- the decentralization of HR responsibilities, which increases the difficulty in resolving issues, as each ministry must often be dealt with separately.

### *RECOGNITION*

Recognition has been shown to motivate staff; increase morale, productivity, and employee retention; and even reduce absenteeism. Unfortunately, almost half of the respondents to our survey did not feel they were getting appropriate recognition for high-quality service. In addition, 44% believed that the current employee performance appraisal system was unfair. Finally, 34% of our survey respondents indicated that they had not had a performance review in the last year, even though MBS policy calls for such reviews to be conducted annually.

### *EXIT INTERVIEWS*

Information from exit interviews can help organizations learn what improvements in their practices may be necessary to retain talented staff. In developing its 1999 HR Strategy and its 2001 R&R Initiative, MBS recognized the need for ministries to conduct exit interviews. In fact, the performance measure adopted for one of the five corporate outcomes targeted by the 2001 R&R Initiative—namely, "pride in quality public service"—can only be reported on through the use of exit interviews. Despite this, none of the ministries we visited had an exit interview process in place, and other ministries indicated that exit interviews were only conducted occasionally if at all.

#### Recommendation

**To improve employee satisfaction and staff retention rates in the Ontario Public Service, the Centre for Leadership and Human Resource Management should:**

- **when reviewing existing or developing new human resource initiatives, assess them vis-à-vis the key drivers of employee satisfaction;**
- **determine, based on long-term business needs, which types of positions are best filled via permanent appointments versus temporary contractual appointments and work with the ministries to achieve these objectives;**
- **expand existing programs that support temporary job assignments, lateral transfers, and secondments to provide staff with enhanced career development opportunities;**
- **work with its employee representatives to prioritize and address the prime sources of employee job dissatisfaction;**

- **broaden both formal and informal employee recognition and appraisal programs; and**
- **establish a formal exit interview process and use the results from these interviews to identify opportunities to improve employee satisfaction and retention.**

### Centre Response

***We will continue to strengthen initiatives that enhance overall employee satisfaction as well as retention rates for high performers. For example, as well as considering the findings of the survey conducted by the Office of the Provincial Auditor, when developing corporate HR policies and initiatives, the Centre will integrate research conducted by other research-based organizations.***

***We will establish, and communicate to ministries, principle-based criteria to use when assessing which positions, by their nature, may be best suited to temporary, contractual appointments rather than permanent positions.***

***Internal mobility is a key factor in ensuring job fit and in providing career development opportunities. The Ontario Public Service (OPS) offers many of these temporary and permanent opportunities to employees, and this is one of our strongest selling features. We are exploring ways to expand horizontally some of our current programs (lateral transfer, etc.) to facilitate moving across ministry boundaries.***

***We agree that is important to be aware of and prioritize the prime sources of both employee satisfaction and dissatisfaction. At the corporate, ministry, and local levels, employer representatives regularly work with and meet with the bargaining agents to address ongoing issues of the employees they represent. In addition, the use of employee survey tools has been identified by leading public and private employers as one of the best methods to identify these factors. We will be looking at the feasibility of regular surveys in the OPS.***

***We agree to broaden*** **informal** ***employee recognition programs and appraisal (performance management) programs. The OPS has a number of formal recognition programs at both the corporate and ministry level. Based on our research, we have identified a gap in the provision of informal, everyday recognition, and the Recognition Fund, approved by Cabinet in June 2004, is designed to address this gap. The Recognition Fund is designed to demonstrate support and recognition for outstanding achievement throughout the OPS and to enable the creation of a culture that demonstrates regular, meaningful recognition of the contributions of employees.***

***The current Performance Management Operating Policy sets the framework for the OPS performance management program. Over the next year, we plan to implement a number of initiatives to reinforce and support the policy.***

***We concur that exit interviews are an important source of information. Although a number of ministries and managers conduct exit interviews or surveys, we will communicate to all ministries the value of exit interviews in gathering data to identify opportunities to improve employee satisfaction and retention.***

## HUMAN RESOURCE PLANNING AND REPORTING

MBS's 1999 HR Strategy and its 2001 R&R Initiative were the initial steps of a larger government-wide effort to renew the OPS, one that would involve ministries in HR strategic processes, from planning to implementing to reporting on success. With respect to HR planning, significant progress was made by June 2002, with all ministries having developed and submitted HR plans covering the two-year period from April 2002 to March 2004. The plans themselves provided details on a number of innovative initiatives, with a view to achieving the government's HR objectives. Such initiatives include employee recognition programs, leadership conferences, job rotation opportunities, and employee surveys to identify current issues. While most initiatives were to be undertaken by individual ministries, several cross-ministry initiatives were also planned, which indicated that ministries were recognizing the availability and value of other corporate resources. While in their 2001/02 plans only 9% of ministries had specified inter-ministry, cluster, or occupational groups as potential partners in HR initiatives, this percentage rose considerably to 35% in the 2002/04 plans.

While the 1999 HR Strategy has resulted in some positive initiatives in HR renewal, we noted a number of shortcomings with the government's strategic planning processes.

### Accountability for Achieving Results

For a corporate HR strategy to succeed, government leaders must set its overall direction, pace, and goals; communicate its importance; and provide the required resources. Our review of the processes in place to ensure the 1999 HR Strategy was implemented at the ministry level indicated insufficient commitment and accountability for achieving these results. Specifically, while MBS was working regularly with ministry HR branches to influence their planning and reporting activities, it had no direct authority over their operations. Likewise, given their limited authority and capacity, HR branches have effectively delegated much of the responsibility for management-employee relations, staff retention, succession management, and training and development to the operational branch or individual manager level, where there is often little knowledge of or interest in fulfilling the corporate HR agenda. Accordingly, a greater commitment from senior management across the government will likely be necessary to accelerate the achievement of corporate HR goals.

## The Tracking and Reporting of HR Initiatives

With respect to the five renewal and revitalization outcomes and corresponding performance measures outlined in the 2001 R&R Initiative, we noted that although all ministries were to report on all five outcomes, only 10 of the 21 ministries (48%) actually addressed all five in their 2002–2004 HR plans and only seven ministries (33%) subsequently reported on all five of the common performance measures. A number of the measures used by ministries also did not relate to the outcomes they purportedly addressed. In fact, many ministries have simply indicated they do not have the systems in place to measure or are unable to collect the data needed to report on the five corporate renewal and revitalization outcomes.

Given the difficulty in obtaining complete data on its corporate performance measures, MBS had not yet been able to establish benchmarks for any of them. At the time of our audit, the measures were under review for possible modification or replacement with new indicators. Until common corporate measures are developed and accepted by ministries, and until benchmarks are established for them and systems put in place to capture the relevant data, it will be difficult for both the ministries and the Centre for Leadership and Human Resource Management to assess whether sufficient progress on the renewal and revitalization outcomes is being made.

The ministries' progress reports provided up to the time of our audit to MBS had also been weak in providing specifics of results achieved vis-à-vis the corporate HR goals. For example, in ministries' May 2003 reports, only 30 of 84 (36%) commitments that ministries had agreed to meet by that time had been fully met. (These commitments, which were outlined in ministries' 2002–04 plans, included such activities as conducting customer or employee surveys, holding workshops, increasing recognition programs, or increasing attendance at wellness events.) The remaining commitments were either partially met (52%) or not met (12%).

Beyond the concerns about ministry performance reporting, we noted that corporate reporting on the achievement of HR objectives and progress vis-à-vis its strategy has been lacking. For example:

- No reporting has taken place that directly outlines progress to date in addressing many of the issues identified in the 1999 HR Strategy. In our view, the Annual Report of the Civil Service Commission would be an ideal vehicle for providing such reporting. However, this report, which the *Public Service Act* requires be tabled annually, was last issued to cover the period 1999–2000. Only unapproved drafts exist for all subsequent years.
- While ministries reported back to MBS on their progress in implementing their HR plans in May of 2003; at the time of our audit, the MBS summary report on this progress had not been finalized.

**Recommendation**

**To track progress in implementing the government's human resource renewal strategy for the Ontario Public Service (OPS), the Centre for Leadership and Human Resource Management should:**

- **obtain the commitment of ministry senior management for the achievement of corporate HR strategic goals and develop sufficient accountability mechanisms to ensure this commitment is incorporated into ministry business planning and performance review processes; and**
- **establish benchmarks and targets for performance measures and work with ministries to ensure that measurement data is available and collected and the results are regularly reported on, both at the ministry level and on a corporate, government-wide basis.**

***Centre Response***

***The Centre agrees that strengthened accountability mechanisms and structures will help advance the HR Strategy. To that end, several initiatives are now in place, or in development.***

***The creation of a single central organization accountable for all aspects of HR management—the Centre for Leadership and Human Resource Management—will in part address this recommendation through related accountability structures. For example, supported by the Secretary of Cabinet, new accountability mechanisms have been included in the Deputy Minister's and senior management 2004/05 performance contracts.***

***As well, we are currently developing OPS-wide human resource metrics reports and related measures that will help senior managers better understand the state of human resources as it relates to their operations. These measures will provide indicators of HR organizational progress, particularly as that progress is benchmarked against external measures. To this end, we are developing an HR scorecard.***

## TRAINING AND DEVELOPMENT

Through training and development, employees improve or update the skills and knowledge they require to meet their current and expected future job responsibilities. Training can be provided internally or externally through courses or seminars, via participation in professional certification programs, or informally through on-the-job training.

Numerous strategic initiatives have recognized the importance of training and learning as one of the cornerstones of quality public service. In addition to the 1999 HR Strategy, the government's 1998 *Building the OPS for the Future: A Quality Service Organization* and its 1999 *Building the OPS for the Future: A Learning Organization* focused on rebuilding the OPS as a learning organization. Despite these commitments, we found that training and development are not being adequately managed to strengthen the government's most important asset—its people.

## Learning and Development Plans

According to the government's 1999 *Building the OPS for the Future: A Learning Organization*, ministries should prepare annual learning plans that are linked to the ministry's business and human resource plans. However, we found that none of the ministries we visited were sufficiently addressing this recommendation. We found learning plans were not linked to overall ministry business needs or aligned with corporate goals. Rather, they were typically developed at the individual employee or perhaps branch level. HR departments were not maintaining centralized records of these plans, nor were they compiling them into ministry-wide plans that would allow them to identify and prioritize overall training needs or take into account training that had already been provided to staff. Training was typically approved on an event-by-event basis without documentation that would justify it in terms of alignment with identified training requirements or ministry business priorities. In addition, while ministries had identified a number of learning and development strategies in 2002, at the end of our audit, they either did not have an implementation plan to address these strategies or had not completed the planned work on them.

Management Board of Cabinet policy requires that, for each employee, an annual performance development plan be completed. The policy indicates that the plan should identify performance commitments, measures related to those commitments, and the learning and development activities to be undertaken during the year. The plan must also be aligned with the current and future business needs of the ministry. We found that none of the ministries we visited had a system in place to ensure that all employees had such a development plan. We randomly sampled 79 employees in the ministries we visited and found that only 6% of employees sampled had performance development plans in place that met all of the policy's requirements; 26% of employees sampled did not have a performance development plan at all; and the remaining 68% of employees' plans did not specify required information, such as the training to be provided, the employee's performance commitments, or measurements of performance.

Access to training was also raised as a significant concern by respondents to our employee survey with 29% indicating they did not receive sufficient training to do their job well.

## The Tracking of Training

It is difficult to determine the ideal amount of training that should be provided to an organization's employees. In discussing the need to invest in staff learning and development, the 1999 HR Strategy noted that public-sector organizations spend an equivalent of 1.4% of their salary and wage budgets on employee learning and development, while it also noted sources that indicated high-performing organizations invest as much as 6%.

A starting point for knowing where the OPS stands in terms of providing adequate training opportunities is capturing training costs incurred on a government-wide basis. However, as the 1999 HR Strategy noted: "It is difficult to calculate OPS investment in employee learning and development with any reliability at this time." Unfortunately, at the time of our audit five years later, this was still the case as there was no overall corporate summary of the amount or cost of training and development provided. Without such data, the Centre for Leadership and Human Resource Management will not be able to establish benchmarks, assess whether training levels are adequate, or monitor whether they are rising or falling over time.

In 1999, the government developed a new information management system known as the Workforce Information Network (WIN) to maintain the personnel records of all Ontario public employees. In addition to basic HR information on each employee, WIN was also designed to track the training provided to each employee such that corporate-level reporting and analysis could be conducted. However, we noted ministries were not utilizing the WIN system to record training provided.

In reviewing the individual training budgets and expenditures on training at the ministries we visited, we further noted that while some ministries had training budgets prepared on a divisional basis and some of these divisions attempted to monitor actual training expenditures, none of the ministries maintained overall training budgets or cost-tracking systems to measure and assess the cost-effectiveness of the training provided.

Since we were unable to obtain an accurate picture from MBS or from the ministries of the amount invested on training and development, we attempted to determine it from the government's central accounting system. The data we obtained indicates that Ontario's training expenditure per employee may be much lower than the public-sector average of 1.4% noted in the 1999 HR Strategy. Even though there had been an increase in recorded training expenditures per employee from $191 in 1995/96 to $307 in 2002/03, this latter amount still represents only 0.5% of the government's payroll costs. By comparison, a Conference Board of Canada report projected training expenditures in Canada to be $838 per employee in 2002 (approximately 1.6% of total payroll costs), and also indicated that training investments by Canadian organizations had been lagging behind other countries for some time.

## Government-wide Training Programs

The Learning Solution Group (LSG), formerly Generic Training, was created by MBS in 1999 to provide cost-effective training opportunities for government employees. Such opportunities would be created through the development of new learning programs and resources as well as the sharing, on a government-wide basis, of quality programs already developed by individual ministries.

We found that the LSG's planning process for developing its offering of training courses was not comprehensive. That is, we saw no evidence that OPS workforce priorities or business needs were key criteria in determining the course curriculum. The LSG developed its courses based on a review of ministries' submitted learning plans, which in turn were developed without input from individual employees. In this regard, we noted very high cancellation rates on the training sessions offered—54% in 2001/02 and 29% in 2002/03—often due to low enrolment. This may impact on the LSG's future success because staff who have their planned training cancelled may well turn to other sources for future training.

We also noted that for only two-thirds of its courses did the LSG have course attendees evaluate the training session they attended, and there were no records to indicate management had analyzed the evaluations that did exist to assess whether the courses had addressed attendees' priorities and their ministries' business needs.

One of the objectives of the LSG is to leverage its resources and avoid duplication of training efforts between it and the ministries. Nevertheless, most of the larger ministries maintained their own training programs, and attendance on LSG courses from these ministries was quite low. When courses offered at the ministry level covered similar areas as those offered by LSG, reasons cited for maintaining these courses at the ministry level were: the cost of LSG courses; the need for more flexibility in course times and locations; and the ability to customize courses for the ministry's specific business requirements.

On a government-wide basis, attendance at LSG courses averaged only 2.75 hours per OPS employee in 2003, indicating that the vast majority of government employee training is being delivered independently of this group. Although it has a mandate to recover its costs, low enrolment and the high course-cancellation rate were key reasons the LSG has been incurring a deficit of approximately $1 million per year since its inception.

### Recommendation

**To achieve the vision of the government as a true learning organization, foster the continual development of the government's human resources, and assess and improve on the cost-effectiveness of investments in employee training:**

**the Centre for Leadership and Human Resource Management should:**

- **work to ensure management policies on training and development are implemented throughout the government;**
- **ensure government-wide training programs develop cost-competitive courses that reflect both employee and ministry training needs; and**

- **consider prescribing that ministries use the Workforce Information Network to record all staff training provided; and**

**ministries should:**

- **prepare annual corporate training plans that address both the Ministry's corporate priorities and employees' training and development needs; and**
- **track and report on the cost, nature, and success of training provided.**

***Centre Response***

***A Learning Strategy is currently in development that sets the framework for the governance, design, development, and delivery of all learning and development activities. Linked to the Learning Strategy is the Learning and Development Operating Policy, which will align with and support the strategy.***

***Training is currently being harmonized across the OPS for all employees. The Leadership and Development Branch will have overall responsibility for governance of learning across the OPS and have final accountability for: determination of corporate priority learning areas, content alignment across the OPS with corporate priorities, quality of curriculum design, and quality of outcomes. This will allow for reduced duplication while increasing the value of the OPS learning investment.***

***We acknowledge the importance of tracking learning and training. We are currently conducting a review that will result in a recommendation for the best way to cost-effectively track and manage training initiatives.***

***After the implementation of the above initiatives during the current and subsequent fiscal years, ministries will also be better positioned to address training planning and effectiveness issues.***

## ORGANIZATION WELLNESS

Wellness programs help organizations address employee health issues, reduce preventable sick days, and enhance employee productivity. They are also a factor in employee retention. Our survey results indicate that the government work environment appears to promote wellness generally. According to our survey of OPS employees, for instance, over 80% of respondents felt they could adequately balance their personal and family needs with their work requirements. Furthermore, most respondents felt that their physical working conditions and the tools and resources they were provided with were sufficient and appropriate for their work.

One wellness program currently offered to all government employees is the Employee & Family Assistance Program (EAP). This EAP, delivered on a confidential basis through an external firm, is designed to help employees with a wide range of personal and work-related problems. We surveyed the OPS employees and found that 84% of those who had used the EAP had found the services provided helpful.

In addition to the EAP, other wellness-related programs available for employees include flex-time and compressed-work-week arrangements. However, we were unable to determine how widespread such programs were because the ministries we visited did not have processes in place to track staff participation in them.

## Absenteeism

Absenteeism can have a significant impact on office performance and productivity and can signal employee commitment problems. While we acknowledge that there are a number of possible approaches to measuring absenteeism (especially given the complexities of the government's human resource database), our analysis indicates that the average number of days lost annually due to sickness in the OPS has remained relatively steady over the past 10 years at about eight days per employee. While it is difficult to compare these levels with benchmark data, the data that is available suggests that OPS levels are comparable with other public-sector jurisdictions. In fact, our analysis indicates that Ontario's absenteeism rate has remained steady while rates in other jurisdictions have been rising.

Other significant components of total absenteeism rates are days lost due to work injuries and absences under long-term income protection programs. For long-term absences in particular, available data suggests OPS levels are generally higher than those of other jurisdictions. When all such sources are considered, we estimate that in the OPS close to 12 days annually per employee are lost due to absenteeism.

None of the ministries we visited maintained a central system to monitor staff with high absenteeism rates. The responsibility for managing absenteeism was delegated to the branches. However, there were no ministry procedures in place to guide branch management.

The OPS does have a corporate Attendance Support Program (ASP) designed to assist management to work with employees with high absenteeism rates to improve their attendance and help them return to a normal work schedule. As part of our data analysis, we identified 61 employees from the ministries we visited, the majority of whom had more than 100 absence days in 2003, and followed up to determine if the requirements of the ASP had been complied with for these employees. We found that in only 10 of these 61 cases (16%) were all the requirements of the ASP met. While the requirements were partially met for 34 cases (56%), for the remaining 17 cases (28%) the employee had not even been registered in the ASP program.

We also noted there was a high number of repeat participants in the program, and the process did not ensure these individuals received specific attention and counselling.

**Recommendation**

**To promote organizational wellness and ensure that productivity is not impeded, the Centre for Leadership and Human Resource Management and ministries should better manage absenteeism by improving systems to identify and work with employees with high absenteeism rates and by verifying that the requirements of the Attendance Support Program are complied with.**

***Centre Response***

***Since 1997, with the inception of the Attendance Support Program (ASP), we have been actively focusing on managing short-term sickness and our calculations show a reduction in short-term absences over that period. However, we agree that systems to manage absenteeism can improve and we are taking steps to do so.***

***We are developing a comprehensive, multi-year health framework that will provide new direction and focus to improve organizational health and well-being. The framework will integrate current policies and programs, and set priorities for developing new policies and programs to fill gaps.***

***In addition, the following improvements are either in progress or planned to improve the way we manage absenteeism:***

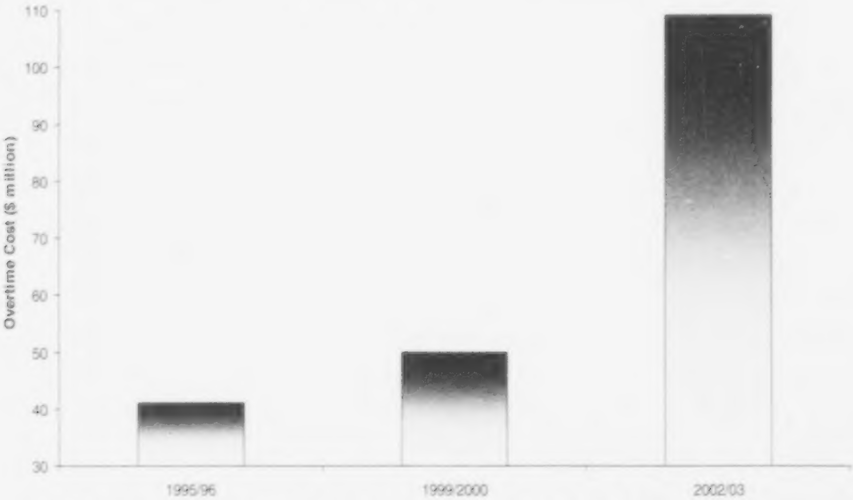
- ***reinforcing managers' understanding and compliance with their responsibilities under the current ASP and other areas of attendance/ disability management;***
- ***improving identification, tracking, and follow-up with employees who have high levels of sick leave usage;***
- ***revising policy guidance to enable employees with disabilities to maximize their productivity and facilitate the early, safe, and sustainable return to work of employees who are absent due to illness or injury; and***
- ***developing strategies to ensure more systematic management of disability issues, particularly workplace injuries and illnesses.***

## *OTHER MATTER*

### Overtime

Prolonged working hours can reduce both productivity and the quality of service provided. From our survey results, 42% of respondents believed that work overload was the factor that had the most impact on the quality of their work. As well, 53% of survey respondents felt that their departments were currently understaffed, and 36% of respondents indicated they could not complete their assigned workload during regular office hours.

As discussed earlier, the government has been downsizing since 1995. Our analysis of overtime since then identified a noticeable upward trend in paid overtime in the OPS, even after excluding all strike-related overtime, as indicated in the following bar graph.



OPS Paid Overtime, Selected Years—1995/96–2002/03

Note: For 2002/03, 2.8 million hours in strike-related overtime was deducted from the total. This amounted to $92.5 million in overtime costs.

*Source of data: Management Board Secretariat*

Whereas in 1995/96 staff worked 1.9 million paid overtime hours, in 2002/03 this had risen to 4.6 million hours (excluding strike-related overtime). The above bar graph does not capture unpaid overtime, which anecdotal evidence indicates is also considerable.

## Recommendation

**To ensure that service quality is not impeded, ministries should monitor the overtime being worked by their employees, set acceptable thresholds for such overtime, and, in areas where these thresholds are being exceeded, take appropriate corrective action.**

## *Centre Response*

***We are concerned about the amount of overtime worked and acknowledge that overtime must be balanced with employee well-being, as well as operational and fiscal priorities. To a large extent, individual ministry managers are responsible for reviewing workload issues including paid and unpaid overtime and staffing resources.***

## MINISTRY OF COMMUNITY AND SOCIAL SERVICES

# 3.03–Ontario Disability Support Program

## BACKGROUND

Under provisions of the *Ontario Disability Support Program Act* (Act), the Ministry of Community and Social Services provides financial assistance to people with eligible disabilities (as defined by the Act) and to people aged 65 years and over who are not eligible for federal Old Age Security. Ontario Disability Support Program (ODSP) financial assistance is intended to provide for basic living expenses such as food, shelter, clothing, and personal needs items.

To be eligible for ODSP financial assistance:

- All applicants must demonstrate a financial need for assistance by providing evidence that their liquid assets and income levels do not exceed specified amounts.
- Most applicants must also be assessed to determine if their disability meets the eligibility threshold established by the Ministry. (No disability assessment is required for people who are already receiving federal Canada Pension Plan disability payments, for individuals aged 65 and over who are not eligible for federal Old Age Security, or for individuals residing in prescribed institutions such as psychiatric facilities.)

Approximately 95% of ODSP recipients are disabled. The majority of these are single persons without dependants, and approximately half have mental disabilities while half have physical disabilities. Mental disabilities include psychoses (for example, schizophrenia), neuroses (for example, depression), and developmental delays. Physical disabilities include diseases of the musculoskeletal system (for example, osteoarthritis), diseases of the nervous system (for example, Parkinson's disease), and diseases of the circulatory system (for example, congenital heart disease). Given the special needs of these groups, most ODSP recipients receive assistance for a long time.

Employment support programs are available to ODSP recipients. However, unlike the recipients of Ontario Works benefits (Ontario Works is a social assistance program for employable individuals), ODSP recipients are not required to participate in such programs. As a result, relatively few ODSP recipients participate in them.

Financial assistance provided to ODSP recipients is greater than that provided to Ontario Works recipients. Examples of typical benefits are illustrated in the following table.

**Examples of Typical Monthly Benefit Payments**

| | Single Person ($) | Single Person with One Child* ($) | Couple with One Child* ($) |
|---|---|---|---|
| **ODSP benefit** | | | |
| basic allowance | 516 | 772 | 875 |
| maximum shelter allowance | 414 | 652 | 707 |
| **maximum benefit** | **930** | **1,424** | **1,582** |
| **comparable Ontario Works benefit** | 520 | 957 | 1,030 |

* recipient with a non-disabled spouse and child 12 years of age or under.

*Source of data: Ministry of Community and Social Services*

Additional assistance is available, based on established need, for a number of other items, such as:

- health-related necessities, such as medical transportation, medical supplies, and special dietary items;
- basic dental and vision care;
- community start-up benefits to assist in the cost of establishing a permanent residence; and
- back-to-school and winter clothing allowances for eligible children.

Although ODSP benefits have not changed since 1993, the government's spring 2004 budget proposed a 3% increase in monthly benefits. We understand that Ontario's current ODSP benefits for basic needs and shelter costs rank fourth highest in Canada, behind Yukon, Nunavut, and the Northwest Territories.

ODSP is delivered by the Ministry's nine regional offices and 44 local offices. The cost of ODSP financial assistance is shared between the province (80%) and the municipalities (20%). Program administration costs are shared equally between the province and municipalities.

For the 2003/04 fiscal year, the Ministry's ODSP expenditures, including financial assistance expenditures, totalled approximately $2.5 billion, of which approximately $176 million represented administrative costs. These costs included salaries, benefits, and other direct operating expenditures. Annual ODSP financial assistance expenditures and related caseloads have been increasing steadily over the past few years, as illustrated in the following table.

**Average Monthly Caseloads and Financial Assistance Expenditures, 2000/01–2003/04**

| | 2000/01 | 2001/02 | 2002/03 | 2003/04 (Estimated) |
|---|---|---|---|---|
| expenditure ($ 000) | 2,037,900 | 2,049,609 | 2,098,033 | 2,277,037 |
| caseload | 191,873 | 192,040 | 194,140 | 200,503 |

*Source of data: Ministry of Community and Social Services*

Before June 1998, assistance for disabled or permanently unemployable individuals was provided under the *Family Benefits Act*. In June 1998, the *Ontario Disability Support Program Act* came into effect, establishing a program specifically for disabled people and eliminating the category of permanently unemployable recipients. However, to facilitate the program's transition, recipients receiving Family Benefits as of June 1998 were automatically grandparented into the ODSP. As a result, we were informed that the current ODSP caseload consists of 60% grandparented former Family Benefit recipients who, although they are not required to have medical reassessments, are required to undergo financial reassessments.

# AUDIT OBJECTIVES AND SCOPE

Our audit objectives for the Ontario Disability Support Program (ODSP) were to assess whether:

- Ministry policies and procedures were adequate to ensure that only eligible individuals received financial assistance and that any financial assistance provided was in the correct amount; and
- the Ministry's recently implemented Service Delivery Model (SDM) was adequately supporting the economical and efficient delivery of the ODSP.

The scope of our audit included a review and analysis of relevant ministry files, policies, and procedures, as well as interviews with appropriate staff, at the Ministry's head office and at three regional offices. We also held discussions with members of the ODSP Action Coalition, an advocacy group with representation from community legal clinics and various other organizations. In addition, we contacted the Chair of the Social Benefits Tribunal (which hears appeals regarding benefits that have been denied by the Ministry), but we were advised that neither she nor other Tribunal members were willing to meet with us.

We also reviewed the SDM (the Ministry's new information technology system and business processes, used both by ODSP and Ontario Works) to assess whether it was adequately supporting the administration of ODSP—for example, providing the information staff needed to effectively run the program—and to determine whether the problems noted in our 2002 audit of Ontario Works had been adequately addressed.

Prior to the commencement of our audit work, we identified the audit criteria that we would use to conclude on our audit objectives. These were reviewed with and agreed to by senior management of the Ministry.

Our audit work was conducted primarily in the period from November 2003 to May 2004, emphasizing program expenditures and procedures during the 2002/03 and 2003/04 fiscal years. We concentrated on areas with the largest program expenditures—basic needs and shelter assistance, which together constituted approximately 94% of total program expenditures. Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

We did not rely on the Ministry's internal audit branch to reduce the extent of our audit work, because the branch had not recently conducted any audit work on the ODSP. In the spring of 2003, the internal audit branch and an IT consulting company jointly reviewed a number of aspects of the SDM, including technical support, the SDM management framework, and the knowledge transfer process from Accenture (the contractor that helped develop the SDM) to the Ministry with respect to application maintenance and support. We reviewed this report but noted that it did not directly relate to the scope of our audit.

# OVERALL AUDIT CONCLUSIONS

Although management of the Ontario Disability Support Program has instituted some improvements to the program since its inception (such as a triage process for reviewing new disability applications), the Ministry's procedures were still not adequate to ensure that only eligible individuals receive disability support payments in the amounts they are entitled to. Implementing substantial program improvements will be all the more challenging since the Ministry's new management information system was not yet adequately supporting the delivery of the program. Some of our more significant observations were as follows:

- For many applicants, initial disability assessments were not completed on a timely basis, which often adversely affected the benefits eligible applicants received. We did find, however, that, for the approximately one-quarter of applicants who were clearly eligible, the introduction of a new triage process has expedited the granting of assistance to them.

- Although the initial assessment of disability eligibility was done by a qualified professional such as a registered nurse or other health practitioner, we found that appeals heard by the Social Benefits Tribunal—consisting primarily of lay representatives—overturned the initial eligibility decision in about 80% of the appeals heard. However, no formal investigation had been done into the reasons for such a high rate of overturned decisions. On the other hand, we did note that the Ministry had recently undertaken several initiatives to improve the consistency of the disability determination process.
- Ministry requirements for determining and documenting financial eligibility were often not met. Three-quarters of the files we reviewed lacked one or more of the information requirements necessary for establishing a recipient's eligibility and the correct amount of assistance to be paid, yet the individuals were still approved as being eligible for assistance.
- The Ministry has established a policy requiring that all recipients' financial eligibility be reassessed every three years. While this is a prudent control, we found that, at the three regional offices we visited, the required reassessments had not been done for over 35,000 recipients—representing 45% of the regions' collective caseload. When reassessments were performed, we found that required information was often lacking, just as it was lacking when financial eligibility was initially assessed. Since approximately one-third of those reassessments that were completed resulted in changes to recipient entitlements, it is critical that these periodic eligibility reassessments be properly completed on a timely basis.
- The Ministry's efforts to collect over $480 million in benefit overpayments were inadequate. Approximately $210 million of the overpayments were designated as "temporarily uncollectible," in many cases for reasons unknown. For $164 million of this amount, the "temporarily uncollectible" designation was given in 1998 and was to extend until December 2005 to allow the Ministry time to establish the validity and collectibility of these accounts. Since successful collection often depends on timely initial contact with the debtor, such lengthy delays will undoubtedly result in foregone collection opportunities.
- Caseworkers often did not undertake timely follow-up of important new information that may have affected a recipient's eligibility for benefits. For example, as at December 2003, about 12,000 follow-up tasks assigned to caseworkers involving such new information had been outstanding for over six months, and many had been outstanding for over one year.
- The new Service Delivery Model information system lacked key internal controls, still did not meet certain key information needs of ministry users and recipients of disability support payments, and continued to generate errors and omit information for reasons that could not be explained.

# DETAILED AUDIT OBSERVATIONS

In our 1996 audit of the Provincial Allowances and Benefits Program (FBA), which was the ODSP's predecessor program, we concluded that the Ministry's administrative procedures required significant strengthening to ensure that, among other things, only eligible individuals receive benefits and that benefits are paid in the correct amount.

At the time of our 1998 follow-up to that audit, many of our 1996 recommendations had not been adequately addressed. However, at that time the Ministry indicated that it was initiating the development of new business processes and information technology (collectively referred to as the Service Delivery Model, or SDM) to support the transformation of the then General Welfare Assistance and FBA into the Ontario Works program and the ODSP. The Ministry also indicated that the SDM would address many of the concerns noted in our 1996 audit and other similar audits around that time.

The SDM system, which was developed by the Ministry and Accenture, was implemented in the 2001/02 fiscal year. Both the ODSP and the Ontario Works program now use the SDM system for the administration of their programs.

In our 2002 audit of Ontario Works, we noted that there were a number of problems with the SDM's functionality and performance, with the result that most of the expected benefits to program delivery remained to be realized. We also concluded that the Ministry had little assurance that Ontario Works benefits were being paid only to eligible individuals and in the correct amount.

Since January 27, 2002, the Ministry's Information Technology cluster has been responsible for the SDM's operation. In addition, in October 2002 Accenture was awarded a three-year contract, totalling $37.9 million, to provide application maintenance and support services for the SDM. That contract's major objective is to deliver required service and operational quality improvements needed to correct outstanding system deficiencies.

## *ONTARIO DISABILITY SUPPORT PROGRAM ADMINISTRATION*

### Eligibility for Benefits

Eligibility for ODSP benefits consists of two separate components: financial eligibility and (for most applicants) medical eligibility. Medical eligibility need not be established for some recipients—for example, people aged 65 and older who are not eligible for federal Old Age Security—but only about 4% of ODSP recipients fall into such categories.

When people apply for ODSP benefits on the basis of having a disability as defined by the *Ontario Disability Support Act*, a screening process is generally used to arrive at a preliminary assessment of their financial eligibility. Those who are deemed financially eligible after this initial screening then receive an in-depth disability assessment to determine whether or not they meet the disability criteria. The assessment is undertaken by the centralized Disability Adjudication Unit (DAU), and if it is determined that an applicant meets the disability criteria, that applicant's financial eligibility must be reconfirmed to make sure that all required information and documents are on file and up to date before benefits are paid.

To ensure that recipients remain eligible on an ongoing basis, Ministry policy requires that:

- financial eligibility be formally reassessed every three years (such a reassessment is called a Consolidated Verification Process, or CVP); and
- where applicable, a formal medical reassessment be conducted within a two- or five-year period (as determined during the initial disability assessment), unless the initial disability assessment shows that the recipient's condition is unlikely to improve.

In addition to these scheduled formal reassessments, whenever the Ministry receives new information (for example, in complaint calls or letters) that might affect a recipient's eligibility and/or payments, a caseworker is expected to look into the matter. If further investigation is warranted, the caseworker forwards the complaint to one of the Ministry's eligibility review officers (see Management Activities later in this report).

### MEDICAL ELIGIBILITY

#### Disability Determination Process

Once the preliminary screening process determines that an applicant is financially eligible, he or she is sent a disability determination package. The package contains three forms: a health status and activities of daily living index report, a form indicating the applicant's consent to have medical information disclosed to ODSP, and a self-report. The first form, which must be completed by a physician or other prescribed professional, gathers information about the applicant's principal medical condition(s) and their impact on daily living activities. The second form must be completed by every applicant. Completing the third form, which is voluntary, gives applicants the opportunity to describe how their disability affects their daily life.

We noted that the completion of all forms is the responsibility of the applicant—the ODSP office does not provide any assistance in this regard in order to promote applicant self-reliance. However, this practice may make it difficult for many applicants with physical or mental disabilities to complete forms properly, and their applications may be rejected as a result. Although organizations such as community legal clinics often provide assistance in helping applicants through the process, such organizations are not able to meet the demand for assistance, and we understand that consequently many people cannot be assisted and are turned away.

The completed forms are forwarded to the centralized Disability Adjudication Unit (DAU) for review. An adjudicator—usually a health professional such as a nurse, an occupational therapist, or a rehabilitation counsellor—reviews the forms. The adjudicator determines whether or not the applicant has an eligible disability (that is, a disability as defined by the *Ontario Disability Support Program Act*) and is therefore eligible to receive assistance. For applicants who are assessed as having an eligible disability, the adjudicators may set a date for a disability reassessment (see Medical Reassessments later in this report). In the 2003 calendar year, approximately 50% of all applicants for whom an initial disability assessment was completed were assessed as having an eligible disability and were therefore granted ODSP financial assistance.

If an adjudicator determines that an applicant does not have an eligible disability, the applicant may request an internal review of the decision. A different adjudicator then reviews the application and must provide to the applicant, in writing, the reasons for the decision resulting from this review within 10 calendar days of receiving the request.

An applicant who is still found not to have an eligible disability by the internal reviewer may appeal the decision to the Social Benefits Tribunal within 30 days of the internal review decision. (See Social Benefits Tribunal Appeals later in this report.)

### Timing of Disability Decisions

During the 2003 calendar year, the DAU received approximately 29,000 applications for benefits. The unit has approximately 30 adjudicators on staff, 22 of whom are assigned to adjudicate applications for benefits at any given point in time (most of the other adjudicators are involved in quality control activities and appeals to the Social Benefits Tribunal). However, since the unit has not established a standard for how many applications each adjudicator can reasonably be expected to process, the unit's capacity to adjudicate applications at its current staffing level has not been determined. There are, however, significant backlogs.

Under provisions of the *Ontario Disability Support Program Act*, when the Ministry determines that an applicant is eligible for benefits, payments are retroactive to that applicant's "effective date of eligibility" (also called the grant date), which is generally the later of the day on which the completed application was submitted and the day that is four months before the day on which the medical eligibility decision is made. Therefore, an applicant's benefits are adversely affected whenever the Ministry takes more than four months after receiving a completed application to decide that an applicant is eligible.

To help ensure that all applicants are treated equitably, applications are adjudicated on a first-in/first-out basis. Although the Act does not specify a time frame by which the DAU must decide on an applicant's medical eligibility, the unit itself has established an internal goal of 45 business days from the time an application is received to the time a final eligibility determination is to be made.

To expedite the initial eligibility assessment for clearly medically eligible applicants, in early 2003 the Ministry established a triage process requiring that all new applications receive an initial review within seven days of their receipt. At the end of 2003, about 24% of triaged applicants had been found to be eligible for benefits; the remaining 76% of the applications had been held after triage for a more detailed eligibility assessment at a later date.

We found in our review of ministry statistics for the files held after triage that many of these files were not adjudicated within the DAU's established goal of 45 business days following receipt, or even within the 80 business days after which applicants' benefits were adversely affected. For example, at the end of December 2003, the DAU was beginning the process of adjudicating 2,285 applications that had been received during August 2003 and were therefore already more than 80 business days old. We understand that there were 10 other weeks during 2003 where the DAU was beginning to adjudicate a weekly average of 376 applications that were more than 80 business days old.

The following factors contribute to these delays:

- The volume of applications received exceeds the DAU's staffing capacity to process them. We understand that, although the DAU was expected to receive approximately 400 applications per week, it has been receiving an average of 600 applications per week over the last year.
- The Ministry receives more applications than it should because individuals previously found to be ineligible often submit multiple applications. Some applicants have reapplied for benefits up to six times.

In addition, information in the applications may be missing or contradictory. In this regard, we understand that medical forms are often not being adequately completed. For example, ministry-prepared statistics indicated that in fully 40% of the applications received, the medical practitioners failed to answer a crucial question involving the expected duration of the applicant's condition. Similarly, approximately 16% of applications in one year lacked other required medical information. Medical eligibility cannot be determined until the missing information is obtained—an undertaking that can often take considerable time.

### Documenting of Disability Decisions

Since a DAU adjudicator's ultimate decision to grant or not to grant ODSP benefits is to some extent subjective, it is vital to adequately document the reasons for each decision so that those reasons can be demonstrated to be fair whenever the file is reviewed.

However, Ministry staff advised us that beginning in March 2002 (the start of the Ontario government's two-month labour strike), the reasons supporting disability decisions were no longer documented. We understand that this practice continued until July 2003. Our review of a sample of files adjudicated before March 2002 found that for approximately half those files, the reasons for the disability decision were also not documented. However, we are pleased to report that our review of files adjudicated after July 2003 found that the reasons for the decision made were consistently documented, and we encourage the Ministry to maintain this practice.

### Internal Reviews and Decision Monitoring

During the 2003 calendar year, 8,475 applications for assistance were denied at the time of initial adjudication and the applicants requested an internal review. As a result of these reviews—which were performed by an individual adjudicator—the initial decision was overturned and assistance was granted to 641 (7.6%) of those applicants.

In January 2004, the Ministry initiated a pilot project under which a panel of five adjudicators conducted all internal reviews requested by applicants. During the first three months of 2004, the panel reviewed 1,140 such files and overturned the decision not to grant benefits for 245 (21%) of all those reviewed. This rate of overturning decisions was approximately three times the rate noted above for the 2003 calendar year when only one person adjudicated applications. Such a difference in the rate of overturning decisions clearly raises questions as to which process should be utilized in order to ensure that the most reliable decisions are being made.

In addition, in early 2004 the Ministry compiled statistics with respect to the rates at which individual adjudicators denied benefits. Our review of these statistics indicated that for the period July 2003 to December 2003, the rates at which individual adjudicators denied benefits ranged from 47% to 91% of the applications they initially considered. In March 2004, the Ministry initiated a quality assurance pilot project to investigate the reasons for such significant variances.

While neither pilot project had been completed by the end of our audit, preliminary indications were that the reasons for variance in the number of decisions that were overturned by single adjudicators compared to the five-adjudicator panel and for the variance in the rates at which individual adjudicators denied benefits include the following:

- Contrary to the requirements of the *Ontario Disability Support Program Act*, some adjudicators were not considering the cumulative effect of an applicant's multiple disabilities. Instead, some decisions were based on only the main one or two impairments.
- Since the reasons for some decisions were poorly documented and/or inadequately explained, it was not clear that all adjudicators were following a reasonable and comparable process.

- Individual adjudicators conducting internal reviews may be reluctant to overturn many of the original decisions due to concern that a high rate of reversals might cause friction or discord between the reviewer and the co-worker whose decision is overturned. With a panel of reviewers, responsibility for overturning a previous decision is spread across panel members, eliminating that concern.

Given the above and the significant number of decisions that are ultimately overturned by the Social Benefits Tribunal (see next section), the Ministry should consider introducing a regular supervisory review process over both initial eligibility determinations and the outcomes of internal reviews.

### Recommendation

**To help ensure that all eligible applicants receive the assistance that they are entitled to, the Ministry should:**

- **take the steps necessary to ensure that all initial eligibility determinations are completed within four months, or approximately 80 business days, following the receipt of a completed application;**
- **adequately document the reasons for all eligibility determinations so that they can be demonstrated to be reasonable and fair; and**
- **introduce a regular supervisory review process over both initial eligibility determinations and the outcomes of internal reviews, and address any concerns arising from those supervisory reviews on a timely basis.**

### *Ministry Response*

***The Ministry agrees and has taken steps so that all initial eligibility determinations are now completed within four months following the receipt of a completed application. Documentation standards have been developed so that all decisions can be demonstrated to be reasonable and fair. The quality assurance process and internal review panel have proven effective and will be maintained on an ongoing basis. Regular reviews of initial eligibility determinations and the outcomes of internal reviews are being conducted, and corrective action is taken as necessary.***

## Social Benefits Tribunal Appeals

Applicants who remain unsatisfied after the internal review decision can appeal to the Social Benefits Tribunal (Tribunal). The Tribunal is an independent body that operates at arm's length from the Ministry. Unlike the DAU adjudicators who have a medical or social service background, members of the Tribunal are lay people who do not necessarily have these qualifications. The Tribunal can hear two types of appeals: income support appeals and disability determination appeals. Generally, income support appeals relate to disagreements concerning the calculation and recovery of an overpayment, while disability determination appeals relate to an applicant's eligibility for benefits.

If the Tribunal overturns a previous ministry decision, the Tribunal's decision is retroactive to the date that the Ministry first made a decision regarding the issue that the appeal was based on.

In the 2003 calendar year, the Tribunal's ODSP-related activities were as shown in the following table.

**ODSP-related Activities by Social Benefits Tribunal, 2003**

| | Income Support Hearings | | Disability Determination Hearings | |
|---|---|---|---|---|
| | # | % | # | % |
| decisions overturned | 60 | 22 | 1,954 | 80 |
| decisions upheld | 188 | 69 | 483 | 20 |
| decisions varied | 23 | 9 | — | — |
| **Total number of hearings** | **271** | | **2,437** | |

*Source of data: Ministry of Community and Social Services*

Ministry staff were unable to explain why the Tribunal overturned the DAU's disability decisions in 80% of the appealed cases. We contacted the Tribunal to discuss the reasons for such a high percentage of overturned decisions, but we were advised that neither the Tribunal's chair nor any other tribunal members were willing to meet with us.

As of December 31, 2003, there were 4,234 ODSP appeals waiting to be heard by the Tribunal. Of those, 2,661 (63%) were disability determination appeals; the rest were income support appeals. We also noted that the Ministry was unable to determine the average length of time between the request for an appeal and the final tribunal decision. However, our review of a sample of appealed files noted that, on average, applicants waited about one year for the Tribunal's hearing and decision.

**Recommendation**

**The Ministry should, in consultation with the Social Benefits Tribunal, determine the reasons for the high rate at which the Tribunal overturns ministry eligibility decisions.**

***Ministry Response***

***The Ministry and the new Chair of the Social Benefits Tribunal have agreed to meet periodically to review trends. The new Chair would also welcome the opportunity to meet with the Provincial Auditor.***

### Medical Reassessments

The *Ontario Disability Support Program Act* requires that the person determining that an applicant has a disability covered by the Act must—when making the initial determination—set a date for a follow-up review of the initial determination, unless he or she is satisfied that the applicant's impairment is not likely to improve. Where applicable, medical reassessments are scheduled—at the adjudicator's discretion—within two or five years.

Regular medical reassessments are an important part of ensuring that only eligible individuals continue to receive ODSP support. From mid-2000 to March 2002, the Ministry completed medical reassessments for approximately 2,700 recipients, with adjudicators determining that 204 (8%) were no longer eligible. According to ministry staff, the majority of recipients thus deemed to be not eligible appeal the decision to the Social Benefits Tribunal and continue to receive benefits until the appeal is heard.

In March 2002, however, due to the backlog of applicants waiting for an initial disability assessment—resulting in part from a 7.5-week-long labour disruption—the Ministry decided to focus all DAU adjudicators' efforts on initial applications and to stop performing medical reassessments.

As of December 2003, ministry staff estimated that 14,000 medical reassessments, or 84% of the total medical reassessments to be performed since ODSP's 1998 inception, were overdue.

#### Recommendation

**To help ensure that only eligible recipients continue to receive benefits, the Ministry should perform the required periodic medical reassessments within a reasonable time frame.**

#### *Ministry Response*

***The Ministry agrees and has established a quality assurance process, which will begin to address the issue of performing periodic medical reassessments within the bounds of available resources.***

## *FINANCIAL ELIGIBILITY*

### Financial Assessment Process

As noted earlier, financial eligibility is initially established by a preliminary screening at the start of the application process and must be reconfirmed after medical eligibility has been determined. A formal financial reassessment (called a Consolidated Verification Process, or CVP) is to be performed every three years after a recipient begins receiving benefits.

Ministry staff assess a person's financial eligibility for assistance through an income and asset test. To be financially eligible, a person's total assets must be no higher than the following values:

- $5,000 for a single person;
- $7,500 if there is a spouse or same-sex partner in the benefit unit;
- plus $500 for each additional dependant.

Cash, bank accounts, RRSPs, and other assets that can be readily converted to cash are considered when calculating a person's total assets. Certain assets—such as a principal residence, a primary vehicle, locked-in RRSPs, and trust funds in the amount of less than $100,000—are not considered when assessing whether the person's assets are within the prescribed limits.

When assessing a person's income levels, income from such sources as employment, the Canada Pension Plan, the Workplace Safety and Insurance Board, and Employment Insurance is taken into account. Generally, to be eligible for even a partial ODSP benefit under the Ministry's Support To Employment Program (STEP), a single person must have income under approximately $16,800 per year.

Individuals in immediate financial need who meet the Ontario Works program's stricter income and asset tests can obtain financial assistance through Ontario Works while waiting for an initial disability determination from ODSP. We understand that approximately 67% of ODSP applicants apply while receiving Ontario Works benefits.

### Documenting of Financial Eligibility

All applicants must provide the Ministry with the information necessary to demonstrate their eligibility for financial assistance and to determine the correct amount of assistance to be paid. Ministry policy requires that, for verification purposes, copies of certain documents/information be placed on file and certain documents/information be noted on file as visually verified. The following table specifies how these requirements apply to particular documents/information.

**Verification Requirements by Document/Information Type**

| Type of Document/Information | Copies Required to be Placed on File | Original Required to be Visually Verified |
|---|---|---|
| social insurance number | | ✓ |
| health number | | ✓ |
| proof of all family members' identity and date of birth | ✓ | |
| verification of income | ✓ | ✓ |
| verification of assets/banking information | ✓ | ✓ |
| verification of shelter costs | | ✓ |
| school verification for dependants over 16 | | ✓ |
| verification of person's status in Canada | ✓ | |
| information regarding debts | | ✓ |

*Source of data: Ministry of Community and Social Services*

The above information may be obtained directly from the applicant or from third parties such as the Canada Revenue Agency via information-sharing agreements. Any missing document or piece of information could have a significant impact on determining financial eligibility and/or the correct amount to be paid.

We reviewed a sample of recipient files for which initial benefits had been granted in 2003 to determine whether all required financial documentation was either on file or visually verified. In the three offices we visited, an average of approximately 75% of the reviewed files did not have at least one (and in a few cases up to three) of the information requirements on file.

The rates at which required information was lacking were comparable to those cited in our 2002 Ontario Works audit and in our 1996 audit of the ODSP's predecessor, the Ministry's Provincial Allowances and Benefits Program. As a result, little if any improvement has been realized in this area.

According to Ministry staff and our own observations, there were two main reasons why required documentation and other information needed for determining financial eligibility was so often missing:

- Ministry staff assumed that Ontario Works recipients who currently are being transferred to the ODSP (roughly 67% of all applicants, as noted earlier) were automatically financially eligible for ODSP, and therefore, in most cases, no additional work was undertaken to establish financial eligibility for ODSP.

  However, although Ontario Works and ODSP have similar financial eligibility requirements, their documentation requirements differ. Thus, at least some verification needs to be done for most transferred files. In particular, ODSP documentation standards require that copies of banking information for 12 months before the application date be reviewed and kept on file. However, under Ontario

Works, banking information is only to be visually verified; no copies are placed on file.

- Ministry staff were either not aware of or not adhering to the requirements for determining—through checks with third parties such as the Canada Revenue Agency—whether or not an applicant had any income (for example, employment income, Canada Pension Plan income, and so on). At one office we visited, we noted that the problem was a lack of awareness. Although staff in the other two offices we visited were aware of the requirements, the files indicated that the requirements were not being adhered to.

We also noted that third-party confirmation of Employment Insurance is not required during the initial financial assessment, but is mandatory during subsequent reassessments (the CVPs). If such checks are valuable enough to be mandatory in CVPs, we believe that they should also be mandatory when conducting the initial financial assessment.

**Recommendation**

**To help ensure that all recipients are financially eligible to receive Ontario Disability Support Program (ODSP) financial assistance and that the assistance provided is in the correct amount, the Ministry should:**

- **reinforce with all relevant ministry staff its requirements for obtaining, documenting, and correctly assessing the required recipient information, including information for those recipients transferred from Ontario Works; and**
- **consider the benefits of including Employment Insurance, where applicable, as a mandatory third-party check during an applicant's initial financial assessment.**

***Ministry Response***

***The Ministry agrees and has introduced a computer-based and instructor-led training program for Ontario Disability Support Program staff that includes a comprehensive module on documentation requirements. The Ministry will clarify the circumstances under which an Employment Insurance third-party check should be completed during initial financial assessment.***

### Financial Eligibility Reassessments

Ministry policy requires that a financial eligibility reassessment—a CVP—be completed every three years. The CVP includes a review of the current file and an interview with the recipient (who is asked to bring in up-to-date supporting documentation such as bank account information) and also involves obtaining certain information from third parties via information-sharing agreements. CVPs are conducted by a group of specialized caseworkers rather than by those who do the initial financial assessments and the day-to-day case management. We believe the CVP process, if working as intended, is well structured and is a generally sound and necessary process for periodically verifying the continued financial eligibility of recipients.

The Service Delivery Model (SDM) computer system is programmed to automatically flag files that require a CVP if certain information in the file suggests that the recipient is at particular risk of ceasing to comply with eligibility requirements. Currently, seven criteria can trigger a risk flag. For example, the system applies a high-risk flag to any file in which the recipient's accommodation costs represent 80% or more of the allowance, as well as to any file for which a CVP has not been undertaken for 35 or more months.

However, the SDM risk-ranking system is not being used to select files for CVP reviews. According to Ministry staff, the current risk criteria do not appropriately reflect the risk factors specific to the ODSP. Therefore the Ministry has decided instead to select files for CVP according to the date on which they were last financially assessed or reassessed, prioritizing the files that have gone without review for the longest time. Unfortunately, this selection method does not identify differences in the cases' risk levels. As a result, CVPs are performed on many low- or medium-risk files when reviewers' time could be more productively spent working on the highest-risk cases first. For example, no matter when the last financial (re)assessment occurred, the financial eligibility status of recipients who are severely disabled is less likely to have changed than that of recipients who are less disabled and who therefore have previously been, or might at some point become, able to earn employment income in addition to their ODSP benefits.

We examined the CVP aging reports at the three regional offices we visited and noted that there were a total of 35,352 overdue CVPs. The files involved were either reassessed or initially assessed on dates ranging from January 1974 to January 2001. This represented 45% of the regions' collective caseload.

The requirement to do a CVP every three years would mean doing approximately 60,000 CVPs each year given the program's current caseload. Information in the SDM indicated that in 2003, the Ministry completed only 31,963 CVPs. According to the SDM, over a third of the completed CVPs resulted in changes in entitlement—due to, for example, the discovery that benefits were being overpaid, underpaid, or paid to people who were not financially eligible. The Ministry tracked dollar amounts for only the overpayments, which amounted to at least $8.5 million: due to a problem with the SDM during the first two months of 2003, not all overpayments were included in that total.

However, when we reviewed a sample of files that the SDM showed as having undergone a CVP, we noted that in some instances, caseworkers had incorrectly entered that a CVP had been done when no CVP had been completed. Thus, the number of completed CVPs reported by the SDM is overstated.

We examined a sample of files that had undergone recent CVPs to determine whether all required financial documentation was either on file or visually verified and whether the correct amount of assistance was being paid. In most cases, we were unable to determine whether the correct amount was being paid due to the following reasons:

- At least one of the CVP information requirements was lacking. This was the case for 74% of the files we examined. For example, in many cases, the required bank statement was not on file.
- In some cases, certain information in the files should have been followed up on but was not; follow-up might have indicated that the amount of assistance being paid was not correct. For example:
    - We noted three unexplained deposits on one recipient's bank statement, but the CVP reviewer had not questioned what these amounts pertained to. The deposits could have related to relevant information such as potential sources of income, which would have resulted in a reduction of benefits.
    - In one case, National Child Benefit Supplement income deposited in a recipient's bank account did not equal the amount deducted from the recipient's benefits. This discrepancy had not been noted during the CVP and could not be explained by the Ministry.

While there is room for improvement in both the timeliness and completeness of CVPs, we did note several instances in which CVP financial reassessments—specifically, the mandatory third-party checks—resulted in ensuring that recipients received the correct amount of assistance and that benefits were terminated for those who were not eligible. For example, the Ministry found the following:

- During a CVP interview, a recipient disclosed that he was living common-law and was receiving monthly inheritance payments. This information had not previously been declared to the Ministry. A subsequent investigation concluded that the inheritance (of which the balance in the trust account at that time was $522,582) exceeded ODSP's $100,000 asset limit for trust accounts. As a result, the recipient's benefits were terminated and the individual was requested to repay the overpayment of $27,300.
- In another case, a Canada Revenue Agency third-party check performed in December 2003 uncovered undeclared Canada Pension Plan income dating back to March 1995. The resulting overpayment was determined to be $21,600, and ongoing monthly benefits were reduced.

**Recommendation**

**To help ensure that only financially eligible recipients continue to receive benefits, and that benefits are paid in the correct amount, the Ministry should:**

- **establish appropriate risk-ranking criteria for selecting files for the Consolidated Verification Process (CVP) and incorporate those criteria into the Service Delivery Model system so that the highest-risk cases can be reassessed first; and**
- **through training and supervisory review, ensure that all required CVP verification procedures are properly completed and documented.**

***Ministry Response***

***The Ministry agrees and will be hiring 72 additional staff to complete Consolidated Verification Process (CVP) reviews for the Ontario Disability Support Program. New risk criteria and a revised process for selecting cases for review have been developed. Phased implementation of the new policy/ process will begin on new cases this fiscal year. Updated CVP training has been developed and implemented. Regular reviews will be conducted so that all required CVP verification procedures are properly completed and documented.***

## Recovery of Overpayments to Recipients

Overpayments occur when recipients are paid more assistance than they are entitled to receive. As of December 2003, information contained in the SDM system indicated that outstanding overpayments for more than 61,500 active accounts (that is, amounts owed by people who were still receiving benefits) totalled $179.9 million. Outstanding overpayments on approximately 71,000 inactive accounts (that is, amounts owed by people who were no longer receiving ODSP benefits) totalled $303 million as of that date.

During the 2003 calendar year, repayments totalling $31.6 million were collected on active accounts (17.6% of the total for such accounts). On inactive accounts, repayments totalled $16.2 million (5.3% of the total). Together, the repayments on all accounts totalled $47.8 million (9.9% of the total for both types of accounts).

Actual recoveries of overpayments were less than they might otherwise have been for the following reasons:

- No effort is made to recover overpayments that are designated as "temporarily uncollectible." This designation applies to approximately $210 million of total outstanding overpayments relating to both active and inactive accounts.
- Little effort is made to recover overpayments from inactive accounts.

- For over one-quarter of all active accounts with collectible overpayments, the Ministry does not recover the overpayment through deductions from the account-holders' current monthly assistance payments, as is the practice set forth by regulation. We understand that such a decision by the Ministry is prompted by account-holder claims that the deductions would cause undue hardship. Furthermore, when the Ministry does deduct from current entitlements, the amount deducted is generally small in relation to the total balance outstanding.

Each of these reasons is discussed in more detail below.

## TEMPORARILY UNCOLLECTIBLE OVERPAYMENTS

Since June 1998, when the *Ontario Disability Support Program Act* came into effect, portability has been allowed for overpayments incurred under the *Ontario Works Act 1997*, the *Ontario Disability Support Program Act, 1997*, the *General Welfare Assistance Act*, or the *Family Benefits Act*. The purpose of this provision was to make overpayments recoverable even if the recipient (and, where applicable, a dependent spouse/same-sex partner) moves between programs or between delivery agents throughout Ontario. As a result of this provision, $164 million in outstanding overpayments for which there was no repayment activity was transferred to ODSP from predecessor programs. This entire amount was designated "temporarily uncollectible" until December 2005 to allow the Ministry time to establish the validity and collectibility of these accounts. In addition, the Ministry designated a further $46 million in outstanding overpayments as "temporarily uncollectible" for reasons that were, for the majority of cases, unknown. In that regard, we noted the following:

- The SDM does not produce a report detailing information on overpayments that have been designated as temporarily uncollectible, so the Ministry cannot monitor the number, type, and value of these overpayments to ensure that they have been classified appropriately.
- Since successful collection often depends on timely initial contact with the debtor, designating these overpayments as temporarily uncollectible for such a lengthy period will undoubtedly result in foregone collection opportunities.

## RECOVERY EFFORTS—INACTIVE ACCOUNTS

The Ministry's initial collection effort for inactive accounts consists of sending three "dunning letters" (debt notices) over a 90-day period requesting that the debtor arrange with the Ministry a plan to repay the amount. If there is no response to the Ministry's letters within 60 days, the account is to be transferred to Management Board Secretariat (MBS), which assigns private collection agencies to continue recovery efforts.

However, ministry staff advised us that they are in the process of reassessing the effectiveness of this collection method. While they have been doing so, and given the fact that collections on accounts transferred to MBS were minimal, ministry staff have not sent inactive overpayment accounts to MBS since October 2001. Moreover, the Ministry has not undertaken any further collection efforts on these accounts other than sending the three dunning letters noted above.

### RECOVERY EFFORTS—ACTIVE ACCOUNTS

By regulation, ODSP overpayments to active recipients may be recovered by deducting up to 10% of the recipient's total monthly assistance payments until the overpayment is recovered in full. Ministry policy, however, specifies that the recovery rate will generally be 5% of income support, a rate that may be reduced if it will cause hardship. Only in cases where there is evidence of capacity to pay the higher amount is the recovery rate allowed to be increased to the 10% maximum.

However, we noted that on average, about one-quarter of the active recipients with overpayments at the offices we visited were not making repayments through automatic deductions from their current benefits. The Ministry was unable to explain why this many active recipients did not have the required deductions from their monthly benefits.

In addition, we noted that even where repayments were being made, the payment amounts were generally small in relation to the amount of overpayment outstanding. For example, a current recipient was repaying a $21,616 overpayment balance through a 5% deduction, which in this case amounted to $46.50 per month. If all factors stay the same, this overpayment will not be paid in full for 39 years.

**Recommendation**

**To help maximize the recovery of overpayments from recipients of Ontario Disability Support Program assistance, the Ministry should:**

- **determine the reasons why those outstanding balances designated "temporarily uncollectible" were thus designated, assess whether the reasons are justified, and, if warranted, redesignate the balances as collectible;**
- **where warranted, actively pursue the recovery of overpayments from inactive clients;**
- **determine the reasons why approximately one-quarter of active recipients with overpayments are not making repayments through automatic deductions from their current benefits and take appropriate action where necessary; and**
- **consider whether the practice of deducting only up to 5% of monthly benefits from active recipients is an effective way of recovering overpayments, especially large ones.**

***Ministry Response***

***The Ministry agrees that overpayment recovery must be maximized, subject to the recipient/former recipient's ability to repay. As noted earlier, the Ministry will be hiring 72 additional staff to complete more timely Consolidated Verification Process reviews for the Ontario Disability Support Program in order to reduce/prevent overpayments. In addition, the Ministry is establishing a centralized overpayment recovery unit to recover overpayments on inactive cases using appropriate measures, including referral to the Canada Revenue Agency's Refund Set-Off Program. A thorough review of cases with overpayments with the designation of "temporarily uncollectible" is currently underway. Where appropriate, recovery will resume. Uncollectible overpayments will be recommended for write-off.***

## Case Management

### WORKLOAD

The objective of good case management is to ensure that only eligible people receive the correct amount of assistance at the correct time. The current case-management service delivery model uses a team-based approach. Under this system, individual caseworkers do not have a caseload of specific recipients. Instead, a number of caseworkers look after a given pool of recipients, with both the size of the caseworker team and the size of the recipient pool for which each team is responsible varying among offices. While there are some advantages to this approach, such as staffing flexibility, there are some disadvantages as well. For example, this approach can negatively affect client service, since no single caseworker is reponsible for and familiar with each recipient's needs and history.

In 1992, the Ministry had established, for a previous social assistance program, a caseload standard of 275 recipients per staff person. We were advised that this standard is no longer applicable since, under the team approach, recipients are not assigned to specific caseworkers. However, in our view, workload standards need to be set regardless of the service delivery structure to determine if staffing is sufficient to perform necessary functions and to allocate ministry staff between the various offices and regions based on the relative caseload.

There are two types of caseworkers involved in case management: income support specialists (ISSs) and client services representatives (CSRs). The CSRs perform basic tasks such as obtaining information, providing support to ISSs, and entering data into the SDM. However, an ISS must approve any information changes in SDM that affect supplemental monthly benefit payments before the change of information can take effect.

We requested information on the number of caseworkers of each type who perform case management duties and the number of benefit units associated with them for each of the Ministry's nine regional offices. The following table illustrates how the workload per ISS and ISS/CSR combined varied across the province.

**Range of Average Workload in Regions as of December 2003**

| | Caseload per ISS | Caseload per Caseworker (ISSs and CSRs Combined) |
|---|---|---|
| highest regional average | 2,174 | 465 |
| lowest regional average | 1,158 | 340 |
| average of all regions | 1,417 | 389 |

*Source of data: Ministry of Community and Social Services*

In our 1996 audit of the Provincial Allowance and Benefits Program (ODSP's predecessor), we noted that there was an average of 385 files per caseworker, which was significantly higher than the standard of 275 recipients per caseworker established in 1992. In 1996, we recommended that the Ministry establish and adhere to a reasonable workload standard to enable caseworkers to perform their work more satisfactorily, and in our 1998 follow-up audit, the Ministry indicated that it intended to address this issue by redesigning service delivery and implementing the Service Delivery Model (SDM). These initiatives were expected to reduce the amount of time caseworkers would need to spend on administrative work, thus allowing each caseworker to carry a higher caseload than would previously have been possible. Given the SDM's continuing difficulties (detailed later in this report), we question whether such high caseloads can still be justified, particularly in view of the more subjective nature of many of the issues regarding disabled individuals and the many file deficiencies we noted during our current audit.

### Recommendation

**To ensure that caseworkers can provide an adequate level of service to recipients and effectively carry out their required responsibilities, the Ministry should:**

- **set and implement reasonable caseload standards; and**
- **re-assess the allocation of staff in the regions to ensure that staff are assigned in accordance with caseload standards.**

**Ministry Response**

***The Ministry is in the process of reviewing how services can best be delivered within the bounds of existing resources and will make adjustments as necessary.***

## MANAGEMENT ACTIVITIES

### Tasks

Important new information that may affect recipients' eligibility or the amount of benefits they are entitled to comes into the Ministry via a number of sources, such as third-party information sharing and eligibility review complaints received via the fraud hotline. When such information is entered into the SDM, the system automatically creates a "task" (essentially a to-do item with the associated new information attached). Each task is sent to the relevant caseworker team. Tasks that cannot be resolved by caseworkers are forwarded to eligibility review officers (EROs), who then conduct a more detailed investigation. Tasks that are resolved by caseworkers or referred to EROs are removed from the outstanding-task list. It is crucial that caseworkers review all outstanding tasks on a timely basis so that any necessary changes can take effect promptly, thereby avoiding any overpayment or underpayment of benefits.

As of December 2003, there were approximately 57,400 outstanding tasks, not including approximately 17,000 outstanding tasks relating to overdue medical reassessments. Of the 57,400 outstanding tasks, 20% had been outstanding for over six months, and many of those had been outstanding for over one year.

There is no system in place to monitor long-outstanding tasks. Supervisors can review a caseworker's task list, but ministry staff with whom we spoke stated that such reviews rarely occur. As a result, information that may be of value to the Ministry is not being investigated in a timely manner, which could impact a recipient's eligibility or the amount of benefits paid. For example, we noted that one recipient was sent two reminder letters before his 65th birthday stating that he needed to apply for Old Age Security or his ODSP benefits would be terminated. The SDM created three tasks to remind the caseworker to follow up on this issue. However, the caseworker did not follow up on these tasks until 15 months later, during which time the recipient continued to receive benefits and applied for and received Old Age Security; as a result, the recipient was overpaid $11,424. Had the caseworker followed up on the tasks promptly, the total overpayment may have been avoided.

### Investigations

The Ministry has approximately 53 eligibility review officers (EROs) who are responsible for conducting detailed investigations. EROs conduct detailed investigations to verify if a recipient is, for example, living with someone, has children living at home, or is working.

We requested information from the Ministry's head office on the number of ERO investigations that were ongoing at the end of 2003, the number that were completed during 2003, and the results of the completed investigations. However, some of this information was not available, and the information that was provided to us was incorrect. Without this information, the Ministry is unable to assess the effectiveness of its ERO investigation process.

We reviewed a number of completed investigations and noted that many had not been pursued in an effective or timely manner, which often resulted in overpayments to recipients. For example:

- In March 2001, the Ministry was notified that a recipient who had been collecting ODSP benefits since 1999 was driving a luxury car. As a result of preliminary inquiries, the recipient signed a declaration in May 2001 stating that he was only a guarantor and co-lessee and did not own the car. His benefits were continued on the basis of that declaration. In March 2003, his car was stolen; when his insurance company contacted the Ministry about the matter, the Ministry learned that the recipient had been married since 1997, he and his wife owned a small business, and he had been leasing a car valued by the insurance company at $85,000. Based on that information, the Ministry subsequently checked with Equifax, which revealed that he also had outstanding loans and further available credit totalling $225,000. In July 2003, the Ministry terminated his benefits and calculated an overpayment of $29,505.82.
- A task generated by a fraud hotline complaint in January 2002 was not reviewed and referred to an ERO until a year after the caseworker team received the task. When the investigation was finally performed, the recipient was determined to have been ineligible since April 1992 (when she had begun receiving benefits). An overpayment totalling $118,174 was created encompassing the benefits paid from that date through to December 2002.

**Recommendation**

**To help ensure that only eligible recipients continue to receive Ontario Disability Support Program financial assistance and that assistance is provided in the correct amount, the Ministry should ensure that:**

- **tasks that may affect a recipient's eligibility and/or payment amount are followed up in a complete and timely manner by caseworkers and, where warranted, referred for eligibility review investigations;**
- **eligibility review investigations are completed on a timely basis;**
- **complete and accurate management information on the number, status, and outcomes of eligibility review investigations is maintained, monitored to**

**ensure timely action, and evaluated in order to assess the effectiveness of the eligibility investigation process.**

***Ministry Response***

***The Ministry agrees and will take measures so that tasks that affect eligibility and/or payment amount are given priority and appropriate cases are referred for eligibility review assessments. The standard for completing an in-depth eligibility review assessment is being reviewed and will be revised so that investigations are completed on a timely basis within the bounds of available resources. The outcomes of eligibility review assessments will be monitored and evaluated to assess the effectiveness of the eligibility investigation process.***

## Cost-sharing between the Province and the Municipalities

### *FINANCIAL ASSISTANCE PROGRAM COSTS*

As noted earlier, the cost of ODSP financial assistance is shared between the province (80%) and the municipalities (20%). The Service Delivery Model (SDM) system produces a monthly ODSP Financial Consolidation Report that provides summaries of total monthly financial assistance provided to recipients within each municipality. The monthly totals on the Financial Consolidation Report are used to bill each municipality for its share of the costs.

However, given the problems that the Ministry has experienced with the SDM, including the inaccuracy of many SDM reports (as described later in this report), we would expect that the Ministry would verify the accuracy of the ODSP Financial Consolidation Report by reconciling it to other information sources, such as a detailed listing of actual payments made to recipients in each municipality. However, since sufficiently detailed and reliable payment listings are not currently produced by the SDM, the reliability of the monthly benefit totals, which are the basis of the billings to municipalities, cannot be confirmed.

**Recommendation**

**To help ensure that municipalities are accurately billed for their fair share of Ontario Disability Support Program (ODSP) benefits, the Ministry should verify the reliability of the monthly ODSP benefit totals in the ODSP Financial Consolidation Report by reconciling them to actual payments made.**

**Ministry Response**

***The Ministry agrees and is developing an improved, automated Ontario Disability Support Program Financial Reconciliation Consolidation Report. In the interim, the Ministry will complete periodic manual validations of the report.***

## SERVICE DELIVERY MODEL

As reported in our 2002 Ontario Works audit, the overall objective for revising the business processes and modernizing the supporting information technology system for the Ministry's social assistance programs was to provide ministry staff with the tools to enhance recipient services and improve the service delivery system's financial integrity while reducing the cost of program administration. The new system—called the Service Delivery Model (SDM)—was intended to reduce the time spent by caseworkers on clerical and other administrative duties, provide more timely and accurate determination of recipient eligibility (thus reducing overpayments, inappropriate payments, and general system abuse), and improve access to the information necessary for effective program management and ministry oversight of both the Ontario Works program and the ODSP.

As of January 27, 2002, the Ministry's Human Services I & IT cluster assumed responsibility for the operation of the SDM system. However, Accenture—the private-sector company with which the Ministry developed the system—continued to be involved, as it was awarded a three-year contract totalling $37.9 million to provide application maintenance and support services for the SDM in October 2002. At the time of our audit, there were approximately 100 Accenture employees working at the Ministry, while the Ministry had approximately 185 Human Services I & IT cluster employees dedicated to the operations of the SDM system.

As with our 2002 Ontario Works audit, our current audit found that ODSP caseworkers still expressed considerable dissatisfaction with the SDM. Many caseworkers acknowledged that the SDM did provide a number of improvements compared to the system it replaced, such as allowing them to view all cases on-line and to view a large amount of historical data. However, they also pointed out that the SDM still did not perform as expected and was very difficult to use. As a result, caseworkers advised us that they actually spend increased time on clerical and administrative duties, to check that the SDM is providing them with accurate and complete information and to make corrections (for example, to recipient payments when SDM deficiencies cause problems).

While the Ministry has made many changes to the SDM to improve the consistency and correctness of the system's operations, many changes still need to occur. Problems identified by system users are reported to the Ministry's SDM help desk, which creates and logs an issue ticket. If ministry information system staff find the identified problem to be valid (as opposed to, for example, being caused by user error), the Ministry creates a system investigation report, which remains open until the problem is resolved. Because particular problems are likely to be reported by various local offices and therefore ticketed a number of times, duplicate tickets are consolidated into a single report. As of March 31, 2004, there were 1,633 system investigation reports that had not yet been addressed. This number is even higher than the 1,198 unresolved system investigation reports that were outstanding at the end of our 2002 Ontario Works audit.

Based on our review of the SDM system and discussions with ministry staff, the system continues to be deficient in four general categories:

- lack of internal controls;
- failure to meet ministry needs;
- failure to meet recipients' needs; and
- unexplained errors and omissions.

Some SDM problems have been mentioned earlier in the report when discussing other findings. Our observations concerning the remaining deficiencies are outlined below. A number of the problems we noted were also pointed out in our 2002 Ontario Works audit.

## Internal Controls

Information technology systems generally include a number of preventive internal controls to help ensure that intentional or unintentional errors do not occur as well as detective internal controls to help ensure that any errors that do occur are detected and corrected. Also, a key output of any management information system is reliable information for decision-makers. We noted that the SDM lacked certain basic internal controls, some of which were documented in our 2002 audit of Ontario Works. For example:

- The system still lacks the segregation of duties and the supervisory controls that could protect both the Ontario Works program and the ODSP from an unnecessary risk of misappropriation of funds. A caseworker could add a false record to the system—either by creating a new "recipient" or by reactivating the file of a deceased recipient—and collect (or have someone else collect on the caseworker's behalf) benefit payments. There are no established SDM or manual controls to either prevent or detect false entry of this nature.
- To provide caseworkers with accurate recipient payment information, the daily payment listing report should include only amounts that reflect actual cheques or direct bank deposits that have been produced. However, we noted that in one case, when a caseworker made a clerical error and input an inaccurate cheque number in

the SDM, that "payment" was included on the payment listing when, according to ministry staff, no cheque was actually produced.

- One expected benefit of administering both the Ontario Works program and the ODSP using one information technology system was that all program information relating to a recipient who transfers from one program to the other would be reflected in the recipient's current electronic file. However, we found that in some circumstances, the payment history of an applicant and his/her spouse is not carried forward when such a transfer takes place and is therefore not available for the caseworker to take into consideration.
- The SDM contains fields that let caseworkers enter an end date to ensure that certain benefit payments are either terminated or adjusted on that date. However, we noted that the system does not always recognize this information and, as a result, continues to pay certain recipients benefits beyond the date that they are entitled to receive benefits. For example, we noted that a caseworker erroneously entered a recipient's rent as $18,200 instead of $182 per month. Since information cannot be erased and re-entered into the SDM, the caseworker set an immediate end date for the incorrect rent amount and then entered the correct amount. However, the SDM did not recognize this change and continued to pay the recipient $414 per month—ODSP's maximum shelter allowance—instead of the correct amount of $182 based on the individual's actual rent. Since the SDM does not have reasonableness edit controls that produce reports that would highlight obvious input errors, the Ministry did not catch this system error until more than two years later, by which time the recipient had been overpaid $6,032. The only report produced by the SDM relating to irregularities in inputting contains an undifferentiated list of overrides; however, since many of the overrides are necessary workarounds—that is, ways to get the SDM to produce correct results that, due to its various deficiencies, it would not otherwise produce—and corrections of errors made while entering information, ministry staff with whom we spoke did not use this report.

## Adequacy of Information Supplied to the Ministry

In order to effectively manage a program, ministry staff must have access to adequate operational and performance information. However, at the time of our audit, we noted that in a number of instances the SDM did not provide information that staff needed or provided information that was unreliable. The lack of needed information occurred at the provincial, regional, and local office levels.

### *PROVINCIAL-LEVEL INFORMATION*

The SDM was intended to improve access to the information necessary for effective program management and ministry oversight of the ODSP. However, we found that the SDM was not adequately supporting ODSP's administration and management, which affects the Ministry's ability to effectively manage the ODSP. The SDM can produce only those reports that it has been pre-programmed to produce. If any other information is needed, the system cannot simply be queried in order to generate a supplemental report. Anyone needing such information must submit a "special request" to the Ministry's Information Technology (IT) staff, who then either write a new program module or adapt an existing one to extract the required data—a costly and time-consuming process. For example, we were advised that our special requests for basic information that was not otherwise available would take six to eight weeks to fulfill, and in many cases they took much longer.

Some of the information that would be useful to management was available in reports that were produced for each local office, but deriving province-wide totals for the data in such reports would require manually adding the information from each of the 44 offices. In the case of monthly reports, this process would need to be repeated 12 times to determine the provincial totals for an entire year. As a result, basic province-wide information of the sort that we would expect to be readily accessible was either not readily available or not available at all—including, for example, the number of applicants in 2003, the percentage of applicants found to be eligible for ODSP benefits, and even the number of individuals receiving ODSP benefits during the year.

### *REGIONAL- AND LOCAL-LEVEL INFORMATION*

Regional and local ODSP offices are periodically provided with a standard set of SDM reports. However, to effectively and efficiently manage the program, caseworkers and managers also need information not contained in those reports. We understand that the Ministry provides the regional offices with some ad hoc reports for various purposes. However, as with the province-wide information, an office that needs further reports or information from the SDM cannot get this information promptly, but must wait until IT staff can create the necessary program code to satisfy the office's "special request."

Examples of information the SDM system did not provide included the following:

- a listing of cumulative overpayments and repayments for each active recipient; and
- a listing of payments cancelled by a local office.

While some SDM-produced reports are useful, others are not reliable or accurate. Examples of inaccurate or inadequate information provided by the SDM included the following:

- Payments made to ODSP recipients are generally processed in a single batch on one day each month. The SDM reports these payments on the monthly payment listing. However, for one of the files we examined, payments made to a recipient over at least a 10-month period and totalling at least $9,300 were not included in the monthly payment listing for that office. Ministry staff were unable to explain why this discrepancy occurred, which raises the possibility that other payments are also not included in this report.

- In certain circumstances, caseworkers need to generate payments on days other than the usual monthly processing day. To do so, they enter information into the SDM that causes it to produce a cheque. The SDM reports all such payments in a daily payment listing. Ministry staff at the offices we visited do match each day's printed cheques to that day's daily payment listing to ensure completeness. The Ministry is aware that the daily payment listing does not always include all cheques prepared that day and has produced an ad hoc report that supplements it. However, in some cases the ad hoc report also does not reflect all the cheques that were produced. At the time of our audit, this problem had not yet been resolved.
- The intake tracking report, which caseworkers use to track applicants' progress through the intake process, was not accurate in some cases. Our review of this report found that it listed a person who had never applied for ODSP, showing a July 2003 grant date.
- In one office, a $15,584 cheque from Human Resources and Development Canada (HRDC) reimbursing the Ministry for amounts paid to a recipient who qualified for federal Old Age Security (OAS) could not be recorded in the SDM because it related to a period of time before the SDM was implemented. This known SDM functional limitation means that the SDM contains incomplete information about the recipient's reimbursements and therefore that the SDM reimbursement report is not accurate. In addition, due to poor cash controls at this office that caused the HRDC cheque to be lost, the recipient continued to receive benefits in an incorrect amount for two-and-a-half years during which he was collecting OAS, resulting in a $26,228 overpayment and the termination of the recipient's ODSP benefits.

Because of these and other deficiencies, some local offices have developed their own manual systems for tracking various functions such as intake, internal reviews, investigations, and Social Benefit Tribunal appeals. As a result, the data produced may not be comparable across all offices.

## Adequacy of Information Supplied to Recipients

Information provided to ODSP recipients directly from the SDM system must be sufficiently clear and detailed to allow recipients to easily understand how their benefits were determined. This would minimize the amount of time caseworkers must spend fielding inquiries from recipients about their benefits and explaining the information to recipients who do not understand it. However, we noted that the SDM does not always supply recipients with enough information to meet this expectation. For example:

- The payment breakdown stub sent to the recipient with each cheque or direct bank deposit (DBD) does not display clear and complete information. Ministry staff informed us that:
  - When a recipient's benefits have been reduced due to other income received, the cheque/DBD stub contains insufficient detail to enable the recipient to understand how the final benefit amount has been arrived at and to verify that the amount is correct. In some cases where income is being received from more than one source, the stub shows just one lump sum deduction for all income, whereas in other such cases—as well as in all cases where income is received from only one source—it labels the source(s) for each income-related deduction. In no case does the stub make clear that income from various sources affects the benefit reduction differently. (Income from some sources reduces benefits by $1 for every $1 of income received, whereas employment income is deducted according to a different formula so that recipients are not discouraged from working if they can.)
  - The recipient's cheque or DBD stub has room for only seven lines of deductions. When a payment involves eight or more deductions, the stub does not show the "extra" deductions. As a result, the information on the stub is incomplete and confusing in that gross pay minus the deductions shown does not equal net pay. For example, one cheque stub we examined showed a total deduction of $2,972, but included the detail for only seven deductions totalling $1,504. The payment in question actually involved 10 deductions, but deductions eight through 10 could not be displayed on the cheque stub.

Because the SDM provides incomplete information to recipients, caseworkers must often take additional time to explain payments to clients who call with questions about the amounts. However, one of the key objectives of the new system was to enhance information reporting so that time spent on matters such as this could be minimized.

## Unexplained Errors and Omissions

The SDM was implemented across the province in the 2001/02 fiscal year, but the system is still not operating as consistently or reliably as should be expected. A number of errors continue to occur for reasons that ministry staff cannot explain. Based on our work and discussions with staff at the offices we visited, examples of such unexplained errors include the following:

- The SDM produced payments for benefits that have already been paid to the recipient. For example, in July 2003 a $3,168 cheque was inexplicably produced for benefits that had been paid to the recipient in 2001.
- To ensure that when ODSP is initially granted recipients do not receive both Ontario Works and ODSP benefits, the SDM is programmed to automatically

deduct any Ontario Works payments made to the recipient during any period for which ODSP benefits are granted retroactively after an applicant is found eligible. However, we determined that this supposedly automatic deduction did not always occur, resulting in overpayments to the recipients.

- In some cases, the SDM system erroneously designated a recipient ineligible when the information that had been input was intended for the individual to be designated as eligible. As a result, a payment was not produced. A caseworker had to then override the system to restore the recipient's eligibility and cause the SDM to generate a payment.
- In some instances, cheques that caseworkers had told the SDM not to produce were reissued by the system anyway, often multiple times.
- Caseworkers requested that a payment be produced, but the SDM did not produce the cheque. Ministry staff had to then prepare a cheque manually.
- The SDM sometimes established an overpayment in error or failed to record an overpayment.

Given the volume of transactions involved, it is impossible to review the vast majority of payments for accuracy. In reviewing only a small sample of payments (those recorded on the daily payment listings), we were advised that caseworkers often find many SDM-related errors. Therefore, there is a strong possibility that other significant problems may go undetected.

### Recommendation

**To help enable the Ministry to efficiently and effectively administer the Ontario Disability Support Program, the Ministry should:**

- **develop and produce accurate and useful performance and operational reports;**
- **provide recipients with more complete information; and**
- **correct known system deficiencies on a more timely basis.**

### *Ministry Response*

***The Ministry agrees, has made some improvements, and developed a plan to further improve the Service Delivery Model within the bounds of available resources. The Ministry has taken a number of steps to provide recipients with more complete information, including a complete re-write of the Ontario Disability Support Program directives that are posted on the Ministry's Web site, the development of program brochures, and new client letters that will be implemented over the coming year.***

## MINISTRY OF THE ENVIRONMENT

# 3.04–Air Quality Program

## BACKGROUND

The Ministry of the Environment's mandate is to protect, restore, and enhance the environment to ensure public health, environmental protection, and economic vitality. To achieve this mandate the Ministry develops programs and partnerships to help achieve cleaner air, water, and land, along with healthier ecosystems.

With respect to cleaner air, pollutants in the air can pose serious health risks, including birth defects, cardiac disease, asthma, and other respiratory problems. Acid rain can negatively affect the environment by damaging vegetation, lakes, fish, and sensitive ecosystems. A depletion of the stratospheric ozone layer increases the risk of skin cancers. The Ontario Medical Association estimated that air pollution in the year 2000 could lead to 1,900 premature deaths and 9,800 hospitalizations and that the annual cost of air pollution to Ontario, in terms of health care and lost productivity, is $10 billion.

There are a number of laws and regulations in place to help protect Ontario's air quality. Of particular importance is the *Environmental Protection Act*. The Act establishes a general prohibition against the discharge of contaminants into the environment in excess of amounts permitted by regulations and provides the authority for environmental inspections and investigations.

To help achieve cleaner air, the Ministry has established a number of programs to monitor emissions and concentrations of air pollutants. These programs include:

- an ambient air-monitoring network of 37 stations located across Ontario to measure concentrations of common air pollutants and report publicly on the Air Quality Index;
- the issuance of Certificates of Approval to restrict the discharge of contaminants into the environment;
- air emissions reporting that requires all large industrial facilities to monitor and publicly report on their emissions of more than 350 airborne substances;
- the Selected Targets for Air Compliance (STAC) program, which requires selected facilities to report emissions directly to the Ministry, thereby allowing the Ministry to determine whether the facilities are in compliance with standards;

- emissions reduction caps for all fossil fuel burning electric power plants, to help reduce the amounts of sulphur dioxide and nitrogen oxides discharged into the air;
- the Drive Clean program, which tests motor vehicles to identify excessive emissions of such substances as carbon monoxide;
- a mobile Smog Patrol, which provides on-road enforcement of vehicle emission standards; and
- an environmental SWAT team of enforcement officers who conduct surprise facility inspections in selected industrial sectors.

In 2002/03, the Ministry spent approximately $28 million for programs and activities that relate directly to air quality; of this amount, $18 million was spent on the Drive Clean program. Additional funding was provided for ministry compliance and enforcement activities that have an air quality component, such as the Smog Patrol and SWAT. The Ministry's air quality program also generated fee revenue of $30.6 million from the Drive Clean program and $3.1 million from the issuance of Certificates of Approval.

# AUDIT OBJECTIVES AND SCOPE

The objectives of our audit of the Ministry's air quality program were to assess whether the Ministry had adequate procedures in place to:

- measure and report on its effectiveness in fulfilling its mandate to protect the environment with respect to air quality and to identify areas where corrective actions were required; and
- ensure compliance with legislation and with ministry policy.

The criteria used to conclude on our audit objectives were discussed with and agreed to by ministry management and related to systems, policies, and procedures that the Ministry should have in place.

Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

The scope of our audit, which was substantially completed in April 2004, included a review and analysis of relevant documentation, as well as discussions with ministry staff responsible for program delivery. Our work was carried out at the Ministry's main offices in Toronto and at selected district offices throughout Ontario.

Our audit also included a review of the activities of the Ministry's Internal Audit Services Branch. We reviewed the Branch's recent reports and although we did not reduce the scope of our audit work as a result of this review, we did incorporate any relevant concerns into our audit work.

# OVERALL AUDIT CONCLUSIONS

Since our audit of the Ministry's Environmental Sciences and Standards Division in 1996, the Ministry has implemented several key regulatory and operational initiatives directed at reducing air contaminants. Notwithstanding those initiatives, we found that the Ministry's procedures need to be strengthened if the Ministry is to adequately monitor and enforce compliance with legislation and ministry policy. Unless further action is taken to address air pollutants, according to ministry projections, over the next 10 years, the province will not be able to meet its national and international commitments to achieve cleaner air in Ontario. These commitments were negotiated in order to protect human health and the environment from the adverse effects of airborne chemicals, smog, and ground-level ozone. Some of the limitations to the Ministry's ability to effectively monitor compliance, meet its commitments, and reduce airborne contaminants include the following:

- In our 1996 audit, we reported that 30% of the existing standards for concentration of air pollutants were out of date and required substantial reduction or reassessment. Since that time, standards have been developed, updated, or reaffirmed for only 18 of 76 air pollutants that have been categorized as high priority for air standards development.
- Since there are no periodic renewal requirements for Certificates of Approval issued to companies regarding maximum limits for discharging contaminants into the air, many certificates reflect outdated pollution requirements that were in effect at the time the certificate was issued. The Ministry does not have a process in place for assessing the risks of outdated certificates and taking remedial action.
- The Medical Officer of Health for Toronto reported that the Ministry's Air Quality Index misrepresents the health risks associated with air pollution because it does not consider the combined effects of all measured pollutants and because 92% of the premature deaths and hospitalizations that are attributable to air pollution occur when air quality is classified as good or very good. We were advised that the Ministry is participating in the development of a national health-based air quality index, which will include the cumulative health impacts associated with multiple pollutants.
- In January 2002, the Ministry introduced an emissions-reduction trading program for the electrical sector to limit the emissions of sulphur dioxide and nitrogen oxides. However, the allowable emission limit imposed for sulphur dioxide exceeded the current total emissions by the electrical sector, which in effect could result in compliance with the program without any actions taken to reduce sulphur dioxide emissions.

- For the Drive Clean program, we identified 3,200 uniquely numbered emissions certificates that were presented for licence plate renewal more than five times each. One uniquely numbered certificate had been presented more than 400 times for different vehicles. Duplicate certificates are immediately identified as such on the computer system, yet in all cases reviewed, the duplicate certificates were accepted and the vehicles received licence plate renewals. Such obvious improprieties undermine this program's integrity.
- In instances where the owners of vehicles that failed the Drive Clean emissions test were required to have repairs done on their vehicles to receive a conditional pass, our sample indicated that almost half of the vehicles had even higher emission readings than before the repairs were performed.
- Since the inception of the Selected Targets for Air Compliance (STAC) initiative in the 1999/2000 fiscal year, the Ministry has requested emissions information from 185 facilities, including the top 20 air-polluting facilities in the province. From the information received, for almost half the facilities whose reports we sampled, either the Ministry predicted that the facilities did not comply with standards and guidelines or, where there were no standards or guidelines in place, the Ministry predicted that concentrations of various pollutants would have an unacceptable impact on the environment or on human health.
- The Ministry's SWAT inspection activities have been successful in identifying numerous non-compliant facilities. However, its follow-up procedures to ensure that identified problems are corrected require strengthening.

### Overall Ministry Response

***Improving air quality is a key commitment of the government. The Ministry is pleased to note that many of the recommendations in the report are already being addressed. For example, a major new initiative, a five-point plan for cleaner air, was announced by the government in June 2004 to limit smog-causing emissions from industrial sources and to set new standards for toxic emissions. Additional programs continue to be developed.***

***The Ministry supports a continuous improvement philosophy and appreciates the constructive suggestions of the Provincial Auditor for potential improvements in existing programs. The Ministry is actively looking at new approaches that will focus program, policy development, inspection, and audit activities while applying available resources to highest-risk emitting sources and that best contribute to environmental improvements.***

***The Ministry is taking action to address concerns raised by the Provincial Auditor. For instance, the Ministry is extending emission limits for nitrogen oxide and sulphur dioxide to more industries, developing a risk-based approach to update certificates of approval, working with the federal government to develop a new health-based National Air Quality Index for***

**_Canada, undertaking a full review of the Drive Clean program, and refining its risk-based approach to inspections to focus efforts on the facilities where emissions pose the highest risk to human health and the environment._**

# DETAILED AUDIT OBSERVATIONS

## *PROGRAM POLICY AND PLANNING*

### Strategic Planning Process

The Ministry classifies air quality issues as local, regional, or global. Local air issues include air pollution from high concentrations of compounds caused by individual industrial and commercial emitters. Regional air issues include smog and acid rain. Major pollution sources for regional air issues include motor vehicles and industrial facilities such as coal-powered electrical plants, metal smelters, and petroleum refineries. Global issues include dealing with emissions that may cause climate change or result in the depletion of stratospheric ozone. Greenhouse gases, such as chemicals traditionally used for refrigeration, contribute to ozone depletion and climate change.

The Ministry has identified key pollutants, their sources, and their related health effects, and has strategically planned various programs and initiatives in an attempt to deal with these issues. Many of the Ministry's air quality initiatives are aimed at reducing emissions of four major pollutants due to their adverse impact on human health and the environment: nitrogen oxides, sulphur dioxide, volatile organic compounds, and particulate matter. The following table provides a brief overview of these pollutants and their sources.

**Key Air Pollutants and Their Sources**

| Pollutant | Description | Primary Sources |
|---|---|---|
| nitrogen oxides | substances formed when fuel is burned at high temperatures | • motor vehicle emissions<br>• electrical utilities<br>• industrial facilities that burn fuels |
| sulphur dioxide | substance released when coal or oil is burned or when metal is extracted from ore | • facilities that burn coal or oil<br>• facilities that extract metal from ore |
| volatile organic compounds | chemicals that contain carbon and evaporate into the air at relatively low temperatures | • cleaning solvents<br>• gasoline<br>• aerosol sprays |
| particulate matter | particles found in the air, including dust, dirt, soot, and smoke, that can be harmful when inhaled | • motor vehicles<br>• factories<br>• forest fires |

*Source of data: Ministry of the Environment*

Under several national and international agreements, the Ministry has committed to a number of reduction targets for these pollutants. For example, pursuant to the 1998 *Anti-Smog Action Plan* and *The Canada-wide Acid Rain Strategy for Post-2000*, the Ministry has committed to achieving, by 2015, substantial reductions of Ontario's emissions of nitrogen oxides (45%), sulphur dioxide (50%), and volatile organic compounds (45%). Under a pre-existing *Canada–United States Air Quality Agreement* designed to control transboundary air pollution, in the year 2000, Canada negotiated with the U.S. an Ozone Annex, which committed Ontario to reducing ground-level ozone (a major component in smog) by limiting emissions from motor vehicles and from coal-burning power plants. Also in 2000, Ontario signed the *Canada-wide Standards for Particulate Matter and Ozone*.

A 1987 international agreement titled *The Montreal Protocol on Substances That Deplete the Ozone Layer* (the Montreal Protocol) established controls over the production and consumption of substances that deplete stratospheric ozone. In 1999, the Montreal Protocol was updated. It currently calls for all participating nations to develop strategies for completely phasing out the use of ozone-depleting substances over the next 10 to 15 years. To meet these commitments, environment ministers across Canada updated Canada's *National Action Plan for the Environmental Control of Ozone-depleting Substances (ODS) and Their Halocarbon Alternatives*, which the provincial environment ministers and the federal environment minister approved in May 2001. Ontario agreed to phase out the use of the most serious ozone-depleting substances. However, as of April 2004, Ontario had not yet phased out the use of ozone-depleting substances in the refrigeration, air conditioning, and fire protection systems sectors in accordance with the *National Action Plan*.

In December 2002, Canada ratified the *Kyoto Protocol*, an international agreement to help reduce greenhouse gas emissions and reduce the impacts of a changing climate worldwide. However, this protocol will not come into effect until at least 55 nations representing at least 55% of greenhouse gas emissions ratify the agreement.

The Ministry has projected emissions of various pollutants for 2015, taking into consideration economic growth, implementation of existing technology, best management practices, and existing ministry initiatives. Based on ministry projections, unless further actions are taken, the province will not be able to meet its air quality targets, as shown in the following table. (For comparison purposes, because the target levels and time frames for the reduction of pollutants in the different agreements vary, we have used the lowest agreed-upon targets for 2015.)

**Comparison between Targeted and Projected Emissions for 2015 and Current Emissions**

| Pollutant | Agreements with Commitments for Emission Reductions | Targeted Emissions (kilotonnes per year) | Projected Emissions (kilotonnes per year) | Current Emissions (kilotonnes per year)[1] |
|---|---|---|---|---|
| nitrogen oxides | • *Anti-Smog Action Plan*<br>• *Canada-wide Standards for Particulate Matter and Ozone*<br>• *Canada–United States Air Quality Agreement* | 363 | 420 | 568 |
| sulphur dioxide | • *Canada–United States Air Quality Agreement*<br>• *Canada-wide Acid Rain Strategy for Post-2000* | 442 | 554 | 588 |
| volatile organic compounds | • *Anti-Smog Action Plan*<br>• *Canada-wide Standards for Particulate Matter and Ozone* | 477 | 607 | 681 |
| greenhouse gases | • *Kyoto Protocol* | 170,000[2] | 230,000 | 209,000 |

[1] The most current information available is for the year 2000.

[2] Based on conditions proposed in the Kyoto Protocol, as Ontario has no formal target under this agreement.

*Source of data: Ministry of the Environment*

To attempt to address the expected shortfall in meeting its targets, in December 2002, the Ministry proposed a Clean Air Plan for selected industry sectors to reduce emissions of nitrogen oxides and sulphur dioxide. As of April 2004, that proposal was still in the consultation stage. At the time of our audit, no new actions have been implemented to help the Ministry meet its target for volatile organic compounds. In addition, according to the Ministry, there is no formal target for greenhouse gases because the province has no specific obligation under the *Kyoto Protocol.*

## Recommendation

**To help ensure cleaner air in Ontario and to meet its agreed-upon national and international commitments, the Ministry should, as a first step, review the effectiveness of its current pollution reduction strategies and develop an overall plan, complete with various alternatives, estimated costs, and timelines.**

### *Ministry Response*

***The Ministry continues to analyze options for new programs to improve air quality in Ontario. On May 21, 2004 Ontario signed a Memorandum of Understanding with the federal government on climate change and is working with the federal government to design programs and requirements to reduce***

***greenhouse gases. In June 2004, the Minister released Ontario's first Implementation Plan for meeting Canada-wide Standards for Ozone and Particulate Matter. The report reviews actions underway to reduce nitrogen oxide, volatile organic compounds, sulphur dioxide, and particulate matter and reviews new programs being considered. For example, the government's commitment to develop clean energy sources and to close coal-fired generating stations will help reduce emissions of nitrogen oxide, sulphur dioxide, and particulate matter.***

***Public consultations are ongoing on actions to reduce ozone-depleting substances in line with Canada's National Action Plan. Ontario is also working with more than 15 industrial sectors on options for reducing volatile organic compounds and ministry staff continue to work with the federal government on actions to reduce volatile organic compounds from consumer and commercial products sold in Canada. On June 21, 2004 the Minister announced a five-point plan for cleaner air, which proposes tougher air standards for harmful pollutants and limits on smog-causing emissions from industrial sources.***

## Air Quality Standards

Ontario's air quality standards, as set out in the regulations to the *Environmental Protection Act*, prescribe the maximum allowable concentrations for 96 potentially harmful air contaminants. Standards are set at levels that should be safe for human health and the environment based on the latest scientific evidence. Standards also provide an objective maximum that can be used to monitor industrial emissions and to provide a basis for enforcing compliance on offenders.

In addition to these legislated standards, the Ministry has developed guidelines for an additional 211 air pollutants. Although guidelines are not legally enforceable, a legal requirement to comply with ministry guidelines can be imposed on emitters through the issuance of a Certificate of Approval that restricts emissions of pollutants to specified maximum amounts. Certificates of Approval are required for any construction, alteration, extension, or replacement of any plant, structure, or equipment that may discharge a pollutant into the environment.

A 1992 review conducted by the Ministry identified which air quality standards should be updated and established priorities among them for revision. This review indicated that 79% of the 289 air standards and guidelines then in effect required revision, with the limits for 91 air pollutants requiring substantial reduction and/or reassessment. In our 1996 audit of the Ministry's Environmental Sciences and Standards Division, we noted that at that time none of the standards had been updated as had been recommended in the 1992 review.

The Ministry released another standards plan in 1996 to set priorities for developing new or revised standards. This plan was revised in 1999, and later released for public comment. Under the revised plan and subsequent additions, 76 pollutants were categorized as high priority for air standard development, and 273 other substances were categorized as secondary priority. The categorizations were based on the pollutant's toxicity level and/or on how much of the pollutant is typically released into the atmosphere. It was the Ministry's intent that once all consultations had been completed, the limits for all substances would be incorporated into the regulations.

At the time of our current audit, substantial work had been done on fewer than half of the high-priority substances that required new or revised standards, as the following table shows.

**Developments in Air Quality Standards for High-Priority Substances Since 1996**

| | # of Substances | % |
|---|---|---|
| standards set for newly regulated substances | 9 | 12 |
| existing standards updated or reaffirmed | 9 | 12 |
| guidelines established or work partially completed | 16 | 21 |
| work in the preliminary stages | 42 | 55 |
| **Total** | **76** | **100** |

*Source of data: Ministry of the Environment*

The allowable concentration limits were reduced for 75% of the high-priority substances that were reviewed by the Ministry, while the other 25% were reaffirmed at their existing levels. Where standards and guidelines were reduced, we noted that the new allowable limits were on average less than 10% of the old limits. In some cases the limits were reduced so significantly that the Ministry has decided to phase in the change using interim standards. For example, the old standard for one chemical was 85,000 micrograms per cubic metre of air. The new interim standard is 3,500, and the expected final standard is 350, or less than half of 1% of the old standard.

At the time of our audit, none of the standards or guidelines had been updated for the 273 substances categorized as secondary priority. However, after comparing these limits with published standards and guidelines used by comparable regulatory agencies, the Ministry had proposed that 75 of these substances be reaffirmed at their present limits. Little or no work had been done on the remaining 198 pollutants.

No air quality standards or guidelines have been created or revised since a number of standards were updated in September 2001. At that time, the Ministry proposed using a risk management framework that outlines an air quality standards implementation process. The first step towards implementing new and revised air quality standards would be to determine how known emitters would be affected by the new standard. The emitting facilities' owners, using air dispersion modelling, would assess their ability to comply with the proposed standards. Once the emitters had assessed their ability to comply, the Ministry would determine, based on this information, whether the standard could be implemented immediately or phased in over a four-year period. In December 2002, the Ministry initiated a pilot project with five industries to test some broad concepts that are used in the plan. At the time of our audit, the pilot project was still ongoing.

The air dispersion models used to predict ground-level concentrations from an industrial source as stipulated in legislation have been in place for more than 30 years. The Ministry recognizes the risk with using this older methodology, as these models may underpredict ground-level concentrations by up to 20 times when compared with the more modern models used by, for instance, the U.S. Environmental Protection Agency. In 2001, the Ministry proposed replacing Ontario's existing air dispersion models with the more-up-to-date models. At the time of our audit, the Ministry indicated that it was developing a proposed guideline for air dispersion modelling. However, this would require further approvals and public consultation.

Given that so many standards and guidelines are out of date, that limits for certain pollutants are as much as 100 times the target standards, and that the air dispersion models currently being used may understate pollution by as much as 20 times, the Ministry needs to expedite the updating process to ensure that the standards and guidelines are sufficient to protect human health and the environment.

### Recommendation

**To protect human health and the environment, the Ministry should:**

- **evaluate the results of the pilot project on the implementation of air quality standards and consider implementation of the associated risk management framework;**
- **develop and update its air quality standards and guidelines on a timely basis; and**
- **consider using up-to-date air dispersion models to assess the impact of planned revisions to air quality standards and guidelines.**

### *Ministry Response*

***On June 21, 2004 the Ministry started consulting with the public and stakeholders on proposals to introduce new air standards, new air dispersion models, and a risk-based decision-making process designed to balance the protection of local communities from the effects of air pollution with implementation barriers, such as timing, technology, and economics. The Ministry's pilot project with five large emitters has led to a proposed risk-based decision-making process, which is currently undergoing public consultation.***

## Certificates of Approval

Under the *Environmental Protection Act*, a Certificate of Approval is required from the Ministry for any construction, alteration, extension, or replacement of any plant, structure, or equipment that may discharge a pollutant into the environment. For requirements that are not already specified in an Act or regulation, Certificates of Approval are used to legally bind emitters to the Ministry's air quality guidelines as well as to other operating and reporting requirements. Each year the Ministry approves almost 2,000 air-related applications for Certificates of Approval.

We reviewed the Certificates of Approval process and, although the necessary emission estimation reports had been submitted by all applicants and analyzed by the Ministry before issuing a certificate, we noted that:

- Since a Certificate of Approval reflects the Ministry's air quality requirements at the time the certificate is issued, many existing certificates are based on out-of-date concentration limits. While newly regulated air standards automatically apply to all emitters, revisions to ministry guidelines can be imposed on a facility only when a certificate is updated. Since Certificates of Approval do not have expiry dates or renewal requirements, they remain in effect until either a facility operator requests an amendment or the Ministry identifies the need for changes through its inspection or other activities. In 2001, a ministry review of the Certificates of Approval process recommended that certificates be given a mandatory review date and undergo systematic updating.
- As reported in our 2000 audit of the Ministry's Operations Division, the computer system that is used to track existing Certificates of Approval did not contain complete information. Currently, all applications for Certificates of Approval submitted since the year 2000 are tracked by the system, as are all certificates issued before 1985. However, for certificates issued in 1985 through 1999, only limited information is available on the system. Important information such as approval terms and conditions is not available for certificates issued in those years. The Ministry's 2001 review of the Certificates of Approval process also recommended improvements to the system to track all existing certificates.
- Inconsistencies were noted among similar types of certificates. Certain standard provisions were not included in all certificates. For instance, over half the certificates reviewed did not contain the standard requirement for facility operators to notify the Ministry about environmental complaints from the public.
- There were delays in the processing of applications for Certificates of Approval. The average approval took eight months, and in some cases the Ministry took as much as two years to render its decision. At the time of our audit, there was a total of 1,364 applications to be processed.

**Recommendation**

**To help ensure that emissions of airborne contaminants are limited to levels that are safe for human health and the environment, the Ministry should:**

- **improve its information systems so that a periodic risk-based assessment can be conducted on all Certificates of Approval to determine the extent to which each certificate needs to be updated to reflect significant changes in air quality guidelines;**
- **develop a checklist to help ensure that all new and updated certificates include standard provisions for compliance with regulations, guidelines, government policies, and other requirements; and**
- **strengthen procedures for processing applications in a timely manner.**

***Ministry Response***

***The Ministry is committed to and will be developing a risk-based/performance management approach to issuing approvals, building on the risk-based/ performance management approach for inspections. This will result in categorizing the regulated community into different risk categories. The Ministry will then establish an approvals process that will allow the focusing of its review function on high-risk sectors. Improvement to information systems will likely be a critical component of this change.***

***The Ministry agrees that the development of a checklist can assist its reviewers, and this will be developed to ensure that Certificates of Approval include relevant provisions for compliance with regulations, guidelines, and government policies as required.***

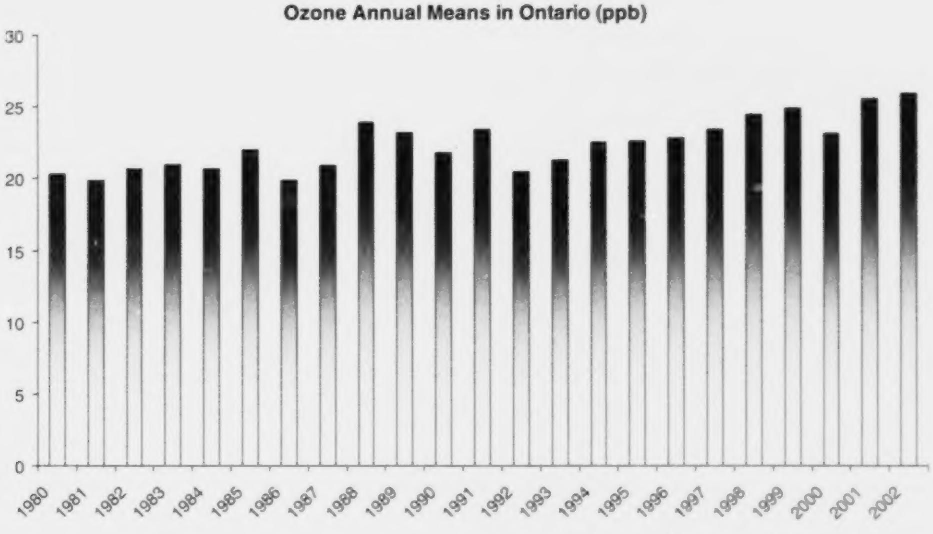
***With a move to risk-based/performance management, there is a potential for a reduction in application processing time with a focusing on high-risk applications. However, as with the current approach, it should be recognized that complex applications may continue to take an extended time for review.***

## *AIR QUALITY MONITORING*

### Air Quality Index

The Ministry provides the public with a rating for outdoor air quality, called the Air Quality Index (AQI). Given that the Ontario Medical Association estimated that air pollution in the year 2000 could lead to approximately 1,900 premature deaths and 9,800 hospitalizations, communication to the public of poor air quality is critical. When vulnerable individuals—for example, those with respiratory problems—are informed of poor-quality air, they can take precautionary measures, such as reducing strenuous outdoor activity.

The AQI rates air quality according to five descriptive categories: very good, good, moderate, poor, and very poor. The AQI is based on readings for six airborne pollutants—carbon monoxide, sulphur dioxide, nitrogen dioxide, ground-level ozone, fine particulate matter, and total reduced sulphur. These readings are taken at 37 air-monitoring stations located throughout the province. At each location the concentration level for each pollutant is measured and converted into an AQI value. The pollutant with the highest value, and hence potentially the worst impact on the environment and human health, becomes the basis for the reported air quality rating for that location. Ground-level ozone is usually the pollutant with the highest AQI value. As can be seen from the following bar graph, average ground-level ozone concentrations fluctuated from year to year up to 1991, but have gradually increased since 1992.


**Ozone Annual Means in Ontario (ppb)**

*Source of data: Ministry of the Environment*

We reviewed the Air Quality Index process and observed the following:

- We noted that for two of the pollutants, a "poor" rating is not applied automatically when concentrations exceed the air quality standard. For sulphur dioxide and nitrogen oxides, a poor rating is reported only when the standard is exceeded by 38% and 28%, respectively. In contrast, the national air quality indices developed by Environment Canada and by the U.S. Environmental Protection Agency start to reflect a poor air quality rating at the point when the standard is exceeded. Toronto's Medical Officer of Health has estimated that 92% of the hospitalizations and premature deaths that are attributable to air pollution occur when the air quality rating is good or very good.
- We compared the air quality standards used in the AQI with standards in other jurisdictions. We found that Ontario standards for carbon monoxide, nitrogen

dioxide, and sulphur dioxide were more stringent than the U.S. and Canadian federal standards, which are used by many states and provinces, but less stringent than World Health Organization standards, as well as standards used in the United Kingdom and in Australia. Ontario standards for the other three pollutants were comparable to those in these other jurisdictions.

- The most recent data available from the 37 air-monitoring stations noted that in 2001, five cities each had 19 days of poor air quality (the highest number of poor-air-quality days for urban centres): Hamilton, Mississauga, Guelph, Sarnia, and Windsor. For rural areas, Long Point had the highest number of poor-air-quality days, at 34 days. The Ministry informed us that nitrogen dioxide emitted from vehicles reduces ground-level ozone. Consequently, rural communities often report higher numbers of poor-air-quality days because of high ground-level ozone readings, which do not get reduced by the larger amounts of nitrogen oxide emitted from vehicles in the cities. Ozone is the pollutant that most often results in a rating of poor air quality. Thus it can appear that rural areas have poorer air quality than urban areas, even though the vehicles in urban areas actually increase total air pollution. Since the AQI does not consider the combined effects of all pollutants, Toronto's Medical Officer of Health reported in October 2001 that the AQI is not sufficiently informative and misrepresents the health risk associated with air pollution levels. We were informed that the Ministry is participating in the development of a national health-based air quality index that will include the cumulative health impacts associated with exposure to multiple air pollutants.

### Recommendation

**To better inform the public of the health risks associated with air pollution so that vulnerable individuals can take precautionary measures, the Ministry should review the Air Quality Index (AQI) process and consider the following:**

- **revising the descriptive ratings so that for all pollutants measured, an air quality rating of poor is imposed at the point where the standard is exceeded;**
- **including the cumulative health impacts associated with simultaneous exposure to the multiple pollutants; and**
- **re-examining the standards for each pollutant in the AQI and incorporate the most current health science regarding the effects of airborne contaminants.**

### *Ministry Response*

***Although Ontario's current AQI represents the state of science monitoring and reporting on key air contaminants, the Ministry is in the process of reviewing the descriptive ratings of the province's AQI in order to address the issue of poor thresholds and their relationship to ministry and/or federal air quality standards.***

***Ontario is participating in the development of a new health-based National Air Quality Index for Canada, which will include cumulative health impacts associated with multiple pollutant exposure. This initiative is being led by the federal government and involves Health Canada, the provinces, municipalities, environmental groups, and other stakeholders.***

## Emissions Reduction Trading Program

Sulphur dioxide and nitrogen oxides are primary contributors to the formation of smog and acid rain. Smog is caused by sulphur dioxide, which reacts with water vapour and other chemicals in the air to form very fine airborne particles. These particles are a significant health hazard: recent studies have identified strong links between smog and increased hospital admissions for heart and respiratory problems. Airborne nitrogen oxides and sulphur dioxide can return to the earth with rain, snow, or fog and acidify the environment. In some geographical areas, other factors in the environment can neutralize the acidic effects. But in those areas—including northern Ontario—where the environment cannot do so, acid rain can damage forests, fish, and vulnerable wildlife and threaten their long-term sustainability. The following table shows the sources of nitrogen oxides and sulphur dioxide.

**Sources of Nitrogen Oxides and Sulphur Dioxide Pollution in Ontario, 1999**

| Source | Nitrogen Oxides (%) | Sulphur Dioxide (%) |
|---|---|---|
| vehicles/transportation | 63 | 5 |
| industrial/commercial | 19 | 69 |
| electrical utilities | 15 | 25 |
| other | 3 | 1 |
| **Total** | **100** | **100** |

*Source of data: Ministry of the Environment*

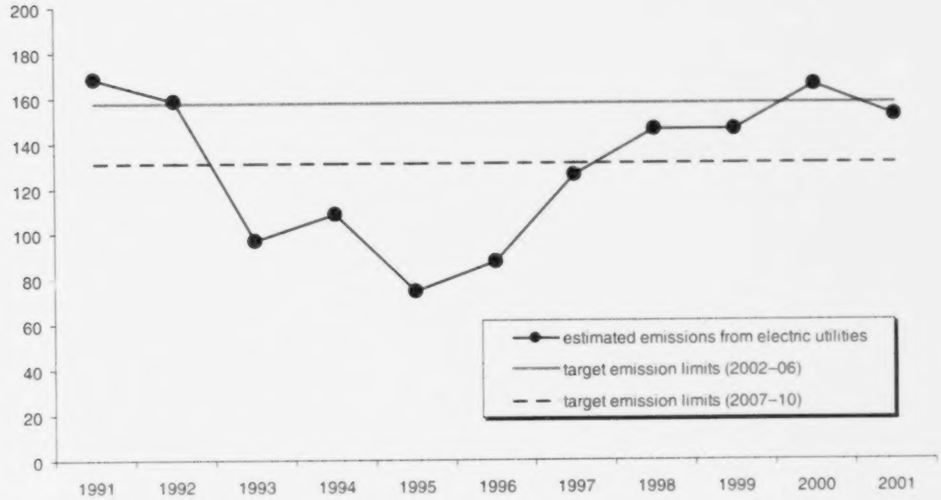
In an effort to reduce emissions of sulphur dioxide and nitrogen oxides and to help Canada meet its commitment to do so under international agreements, the Ministry introduced the Emissions Reduction Trading program. Starting January 1, 2002, the Ministry capped total emissions of these two substances from plants in the electricity sector that burn coal and natural gas.

In general terms, the program is designed to work as follows. The government permits each emitter a limited amount of emissions. The sum of these allowances corresponds to the province's overall emissions target. Emitters that reduce emissions below their permitted levels can sell their unused allowances to other companies that could then emit above the levels they were originally allowed. Emitters could include U.S. companies in the same airshed as Ontario. The price for the allowances is intended to be determined by market forces. Some emitters may find it cheaper to buy allowances than to invest in emission-reducing technology. The theory behind the program is that over time, as the government reduces the overall emissions limit, market prices for available allowances may increase to the point where excessive emitters would find that investing in emission-reducing technology is more economical than buying allowances.

For the first two years of the Emissions Reduction Trading program, the regulation applied only to the six fossil fuel–burning plants operated by the Ontario government's Ontario Power Generation Inc., which accounts for most of the emissions from the electricity sector. Starting in January 2004, the program was expanded to include other independent power producers.

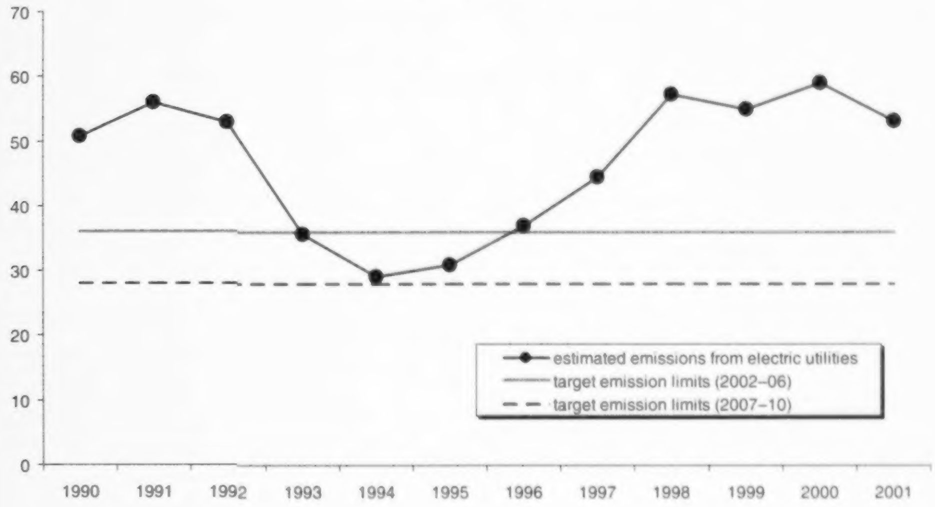
The following line graphs outline program target limits and annual emissions of sulphur dioxide and nitrogen oxides for the electricity sector as a whole.

**Sulphur Dioxide—Estimated and Target Emissions from Electric Utilities (kilotonnes)**



*Source of data: Ministry of the Environment*

For 2002, the program's first year, the emission limit for sulphur dioxide was set at 157.5 kilotonnes, which was 25% higher than the average emissions from the electricity sector over the previous 10 years. Consequently, until 2007, emitters could discharge significantly more sulphur dioxide than before, yet still meet the Ministry's target level. Accordingly, in the short term, the program may not result in its intended effect of reducing sulphur dioxide emissions.



Nitric Oxide—Estimated and Target Emissions from Electric Utilities (kilotonnes)

*Source of data: Ministry of the Environment*

Conversely, the 2002 emission limit for nitrogen oxides was 36 kilotonnes, which was 32% lower than estimated emissions for 2001 and which theoretically should result in lower emissions over time if the electricity sector can reduce emissions to target levels. However, at the program's inception, Ontario Power Generation Inc. was given emissions reduction credits for actions taken to reduce emissions before the program started. These credits totalled over 19 kilotonnes of nitrogen oxides and can be carried forward indefinitely. As a result, the Ministry estimated that the electricity sector was able to exceed the emission limit for nitrogen oxides by six kilotonnes in 2002 (16% over the limit) and three kilotonnes in 2003 (8% over the limit).

Both of the preceding graphs exhibit a similar pattern with low emissions in 1994/95, when coal was used to generate only 11% of the province's electricity. We were informed that since that time, the production of electricity from coal-burning plants has increased to 25% of the province's total. We were also informed that the increased use of coal and corresponding emissions are attributable to shutdowns in the nuclear sector: nuclear power decreased as a percentage of the province's total electrical generation from almost 60% in 1994/95 to 41% in 2001.

In Ontario, the electricity sector accounts for only 25% of the province's sulphur dioxide emissions. By contrast, this sector accounts for almost 70% of U.S. sulphur dioxide emissions. In the United States, according to the Environmental Protection Agency, a sector-wide emissions trading program has had a significant positive impact on overall emissions. At the time of our audit, regulatory emission limits for sulphur dioxide in Ontario applied to the electricity sector only: the Ministry had not set limits for the industrial and commercial sectors, which together are responsible for 67% of sulphur dioxide pollution.

**Recommendation**

**To help reduce overall emissions of nitrogen oxides and sulphur dioxide and to ensure cleaner air, reduced smog, and reduced acid rain, the Ministry should consider:**

- **setting effective emission limits for sulphur dioxide (that is, limits that are below current emission levels);**
- **placing limits on the excessive use of emissions reduction credits; and**
- **imposing emission limits on other sectors that are significant emitters of sulphur dioxide and nitrogen oxides.**

***Ministry Response***

***The Ministry will continue to review the opportunities to improve Ontario's emissions trading program to ensure strict environmental protection through emissions caps and incentives to all emitters to reduce emissions. The regulation reduces sulphur dioxide emission caps to 131 kilotonnes in 2007 (from the 2002 limit of 157) to ensure action is taken to reduce emissions, and these limits will be reviewed as new programs are introduced.***

***To help ensure that the use of credits is not excessive, the current regulation limits the use of credits to 33% and 10% of the allowance use for nitrogen oxide and sulphur dioxide, respectively. These limits will also be reconsidered as experience is gained with the program.***

***The Ministry continues to assess programs to reduce emissions, and on June 21, 2004, the Ministry proposed extension of emissions caps regulations to capture seven industrial sectors (including major sulphur dioxide emitters), in addition to the electricity sector.***

## Air Emissions Reporting Process

A regulation to the *Environmental Protection Act* requires emitting facilities to monitor their emissions of more than 350 airborne substances. If a facility's annual emissions of any of these substances exceeds a specified threshold, the facility is required to produce an annual report detailing the substance(s) and emission levels involved. These reports are intended to provide the public with access to accurate information on contaminants that are being emitted into Ontario communities. At the time of our audit, the Ministry had received reports for the 2002 calendar year from approximately 4,250 facilities. Emissions reported by these facilities are posted on the Ministry's Web site.

We reviewed the emissions reporting process and found that the process had substantially accomplished the goal of providing information to the public regarding airborne emissions. However, we noted several areas where improvements could be made:

- The Ministry did not have a listing of facilities that should submit air emission data. Consequently, the Ministry could not determine whether all facilities that were required by the regulation to submit reports had submitted those reports. In addition, facilities are required to submit annual emission reports within six months of the end of each calendar year. For the 2002 calendar year, more than 700 facilities had submitted their annual emission reports late.
- Over 45% of the annual emission reports received for 2002 were flagged as incomplete on the Ministry's Web site. The Ministry stated that many of the omissions were minor in nature, but at the time of our audit, the Ministry had not completed a review of the annual emission reports for 2002. The Ministry informed us that it had reviewed the annual emission reports submitted in 2001, found anomalies for 300 of the reporting facilities, and instructed these facilities to correct and resubmit their information.
- The Ministry cautions that year-to-year comparison of emissions at a facility or comparisons among facilities of total emissions may not provide a good basis for making decisions about environmental and health impacts. The Ministry cannot consolidate or properly analyze the information submitted because it was incomplete, due in part to the fact that facilities are not required to report emissions of substances that do not exceed the thresholds.

### Recommendation

**To provide the public with accurate information on the emission of airborne contaminants sufficient to allow informed decisions about environmental and health impacts, the Ministry should:**

- **develop a process for ensuring that all facilities required to submit annual emission reports do so;**
- **follow up on annual emission reports that are incomplete and/or contain anomalies on a timely basis to provide the public with assurance that the information is reasonably reliable; and**
- **consider generating consolidated reports that are sufficiently useful for both public and ministry decision-making purposes.**

### *Ministry Response*

***The Airborne Contaminant Discharge Monitoring and Reporting regulation (Regulation 127/01) requires industrial, commercial, institutional, and municipal sectors across Ontario to collect and report information on over 350 air pollutants to the Ministry. As well as reporting this information to the provincial government, these facilities are required to make their reports available to any member of the public. The reporting organization (facility) is responsible for the validity and quality of its reported data.***

***The Ministry undertakes a range of activities that can help identify facilities that should be reporting under Regulation 127/01. These activities include: outreach activities to raise the awareness of reporting requirements under the regulation (for example, training workshops); ongoing strategic inspections to determine if facilities are meeting reporting requirements through compliance audits and inspection activities; strategic analysis of data submitted; quality control/quality assurance processes; utilization of Environment Canada's National Pollutant Release Inventory list to identify potential candidates for inspections; and strategic field intelligence (use of existing knowledge of ministry staff of a particular facility).***

***The Ministry will continue to work closely with Environment Canada and ministry staff to improve the screening of reporting facilities and other quality assurance and quality control methods.***

***The Ministry reviews all reports submitted by facilities under Regulation 127/01 and subjects the reported data to quality assurance and quality control procedures. Approximately 30% of the reports received in 2004 (for 2003 data) were flagged as incomplete by the Ministry. The Ministry has put in place processes to follow-up on all incomplete and/or anomalous reports.***

***The Ministry and Environment Canada continue to harmonize and enhance Regulation 127/01 and the National Pollutant Release Inventory by simplifying and streamlining reporting requirements. Harmonization efforts are intended to address stakeholder concerns by maximizing reporting coverage while minimizing reporting burden. The Ministry is also working with Environment Canada to develop summary reports of provincial emissions based on the information submitted and other methodologies, such that the annual provincial emissions compiled will be sufficient, useful, and informative for both the public and the Ministry.***

## Drive Clean Program

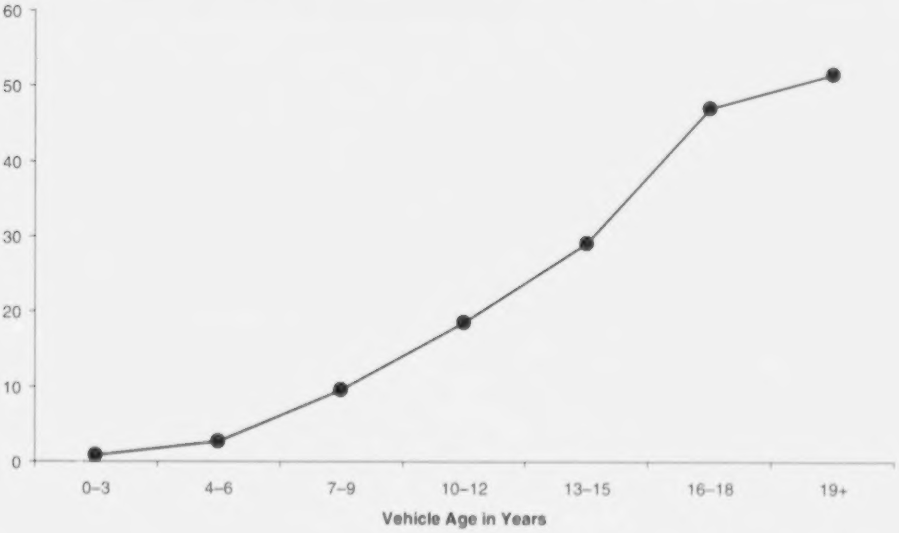
The Ministry introduced the Drive Clean program in 1999 to help reduce the emissions from on-road vehicles that contribute to smog. Motor vehicles are the largest domestic source of smog-causing pollution in Ontario and are also the source of approximately 60% of all carbon monoxide pollution.

In general, light-duty vehicles between three and 20 years old are to be tested every two years. Light-duty vehicles 20 years old and over are not required to be tested. Heavy-duty vehicles, regardless of age, are to be tested annually. Emissions tests are performed by one of the 2,300 testing facilities accredited by the Ministry. The Ministry is to receive a fee from the testing facility for every emissions test conducted. When a vehicle passes its test, the testing facility issues a uniquely numbered emission certificate, which is required for licence plate renewal. Private-sector service providers perform a number of functions related to this program, such as monitoring Drive Clean facilities to ensure, for instance, that testing equipment is operating satisfactorily.

We reviewed the Ministry's administration of the Drive Clean program and noted the following:

- In 2002, the most recent year for which information was available, almost 2.4 million vehicles were tested. Overall, 280,000 of these vehicles (11.7%) failed the emissions test. Failure rates increased significantly with the age of the vehicle, as shown in the following line graph.

**Percentage of Drive Clean Failures by Age of Light-duty Vehicle Tested**



*Source of data: Ministry of the Environment*

We were informed that, as of December 31, 2003, more than 60,000 light-duty vehicles in Ontario were 20 or more years old. Given that the oldest vehicles tested have a 50% failure rate, there could be about 30,000 of these old vehicles on the road that would not pass an emissions test. In addition, emissions limits for older vehicles that are covered by the program are up to three times higher than those for newer vehicles. As a result, an older vehicle that fails its emissions test pollutes significantly more per kilometre driven than a newer vehicle that fails. The exemption from testing for vehicles that are 20 years old and older is inconsistent with the approach taken by similar programs in other jurisdictions. Based on the Ministry's review of 32 jurisdictions, all but one jurisdiction tested vehicles more than 20 years old.

- A vehicle that fails an emissions test may be granted a conditional pass (which requires it to be tested again the following year) if the owner incurs repair costs up to a $450 limit. Conditional passes were given to 56,000 vehicles in 2002. Any individual repair that will cost the owner more than the limit does not have to be made, and the vehicle may be given a conditional pass without any repairs. We reviewed a sample of 2002/03 emission certificates for vehicles that had been given a conditional pass after repairs were done and found that almost half of these vehicles produced greater emission readings than before the repairs were performed. We also found that, although heavy-duty vehicles are not eligible for a conditional pass, such passes had been issued to 223 heavy-duty vehicles since the program's inception. We reviewed all such conditional passes issued during the last three months of our audit and noted that virtually all were accepted for licence plate renewals.

- We reviewed a sample of the 500 public complaints the Ministry received concerning the Drive Clean program and found that 30% of the complaints reviewed were from vehicle owners claiming that their cars failed at one testing facility and subsequently passed at another without any repairs.
- There are two methods of testing light-duty vehicles' emissions levels. One method tests a vehicle in simulated motion, and the other tests a vehicle in idle. The first method is preferable, because it more closely represents normal engine operation and better reflects on-road emissions. The idle method is to be used only for those vehicles, listed as exempt in the Ministry's procedures manual, that cannot safely be tested using the other method. Since the program's inception, at least 120,000 vehicles that were not on the exemption list had been tested using the idle method. In 2003, 1,000 vehicles failed under the simulated-motion method and were retested using the idle method, even though these vehicle types were not on the exemption list. In 85% of these cases, the vehicles passed the second test.
- Emissions testing equipment at each Drive Clean facility is connected to a central computerized database. When the testing equipment is operated on-line, all emissions test results are instantaneously input into the centralized system. That system is on-line virtually 100% of the time. However, we found that more than 1,400 Drive Clean facilities engaged in off-line testing, which exposes the program to risk because data collected this way can be and has been lost, and the Ministry may not be paid for all the off-line tests. According to Ministry estimates, as of January 31, 2004, almost 40,000 emission certificates that were not in the system had been presented at licence plate renewal offices.
- We identified 3,200 uniquely numbered emission certificates that had been presented at licence plate issuing offices more than five times each. One uniquely numbered certificate had been presented more than 400 times for different vehicles. Not only did such vehicles not have the required emissions test, but the Ministry did not receive payments totalling over $600,000 for more than 50,000 Drive Clean certificates. We traced a sample of vehicles that had used duplicate certificates and noted that the vehicles had either failed a recent emissions test or received a borderline pass on a test one or two years earlier. A duplicate certificate

can immediately be identified as such on the system, yet in all cases noted above, the duplicate certificates were accepted for licence plate renewal. Such obvious improprieties undermine the program's integrity.

**Recommendation**

**To maintain the integrity of the Drive Clean program and help promote cleaner air and a healthier environment by reducing pollution caused by motor vehicles, the Ministry should:**

- **consider testing vehicles 20 years old and older, as is done for similar programs in most other jurisdictions;**
- **restrict the issuance of conditional passes to light-duty vehicles only;**
- **follow up with the responsible test facility on instances of incorrect emissions tests being conducted; and**
- **program the computer system to reject duplicate emission certificates so that they cannot be accepted for licence plate renewals.**

***Ministry Response***

***The Ministry is committed to ensuring the Drive Clean Program makes a positive impact on the environment and on the health of Ontarians. In keeping with the Program's commitment to continuous improvement, a program review is scheduled to begin in 2006. This review will thoroughly assess all aspects of the program.***

***As part of that review, the Ministry will consult with other jurisdictions and re-examine the issue of testing vehicles 20 years old and older. Current information suggests older vehicles are generally driven about one-third the total distance of newer vehicles and account for fewer than 1% of all cars driven in Ontario.***

***As of July 2004, the repair cost limit became $450 throughout the program area. It allows vehicle owners to defer emissions system repairs that raise their repair costs over that limit and obtain a conditional pass to renew their vehicle registrations. The repair cost limit ensures that a vehicle's emissions system faults are diagnosed and that at least some emissions-related repairs are performed for the benefit of our air quality. It is expected that implementation of the increased repair cost limit throughout the program area will result in a larger number of vehicles being fully repaired. In situations where only partial repairs are made to the vehicle, the emissions control system will continue to malfunction and fluctuations in emissions can be expected.***

***The Ministry has planned targeted correspondence to Drive Clean facility owners to reinforce compliance for past incidents where heavy-duty vehicles have been issued conditional passes. The Ministry will also continue to address this issue through inspector and repair technician training and initiate***

***telephone follow-up as part of the quality assurance program wherever such occurrences are identified.***

***Effective August 2004, the Ministry reminded all facilities of the standard procedures related to the two methods of emissions testing and the consequences of non-compliance. The Ministry has also implemented a daily exception reporting and follow-up process to identify facilities whose test records show suspect uses of improper testing procedures. In 2003, test and repair complaints were received at an average rate of 1 for every 5,000 tests conducted. Variations in test results are typically a function of intermittent control system problems. A variety of quality assurance procedures are in place to ensure ongoing test consistency, including facility audits based on relative incidence and risk of test anomalies. The current guideline provided to inspectors helps identify vehicles that cannot be safely tested on the dynamometer; however, it cannot be all inclusive since any vehicle can be customized.***

***The Ministry identified the issue of duplicate certificates as a serious concern and has been working with the Ministry of Transportation to address this issue. As of July 2004, the Ministry and the Ministry of Transportation have implemented revised procedures to ensure that the use of duplicate certificates has been significantly curtailed. The new procedures effectively ensure that validation procedures detect previous uses of the same certificate number for different vehicles and prohibit a transaction from being completed at a Driver and Vehicle Licensing Office. Where duplicate certificates are identified, the certificate is refused at the Licensing Office and the customer is directed to call the Drive Clean Call Centre. All such incidents are reported to the Ministry's Investigations and Enforcement Branch for follow up.***

## Vehicle Emissions Enforcement Unit

The Ministry's Vehicle Emissions Enforcement Unit, also known as the Smog Patrol, complements the Drive Clean program by providing on-road enforcement of vehicle emissions standards. The unit inspects vehicles suspected of emitting excessive smoke or of having altered pollution control equipment. Penalties for failing an emissions test or for having missing or tampered-with emissions control equipment are $305 for light-duty vehicles and $425 for heavy-duty vehicles.

The unit was formed in 1998 and by December 31, 2003 had performed more than 28,000 inspections and identified 5,100 instances of non-compliance, indicating that it was effective in identifying and ticketing non-compliant vehicles. However, we observed the following:

- The unit's performance target was to conduct 6,000 inspections during the 2003/04 fiscal year. Since there are 24 Smog Patrol staff who conduct roadside inspections, the unit's target was slightly more than one inspection per person per working day. In the first eight months of the fiscal year, the unit had already performed more than 8,100 inspections. However, given that each inspection takes less than 30 minutes, the targets set for the unit were exceedingly low.

- From our sample of on-road inspections, we noted that none of the vehicle operators who were ticketed for excessive emissions or altered emissions control equipment were required to take corrective action. Smog Patrol or other ministry staff are not required to follow up on violations to ensure that problems are fixed.

### Recommendation

**To enhance the effectiveness of the Vehicle Emissions Enforcement Unit in reducing airborne pollutants to protect human health and the environment, the Ministry should:**

- **reassess the target number of inspections to be performed annually and set more productive inspection targets; and**
- **follow up on violations to ensure that missing or inoperable emissions control equipment is restored or repaired.**

#### *Ministry Response*

***The number of inspections conducted by the Vehicle Emissions Enforcement Unit is reviewed annually and is considered when establishing performance targets. Given that the 2003/04 fiscal year was the first year that the Vehicle Emissions Enforcement Unit had a full complement of 24 officers, staff exceeded their inspection target. For the 2004 /05 fiscal year, the approach to the program has been realigned with the introduction of a risk-based sector-specific approach along with other program modifications and enhancements. Given the program realignment, the inspection target for the 2004/05 fiscal year has been increased and will be reviewed at mid-year.***

***The Ministry has recognized the need to incorporate a range of compliance instruments, such as repair orders/provincial officer orders, warning notices and tickets, to enhance the compliance approach for the Smog Patrol. Guidance materials to support the appropriate use of these compliance instruments were developed and implemented in March 2004. These guidance materials direct staff to follow up on violations to ensure that compliance is achieved.***

***The enhancements to the inspection/compliance tracking information system initiated this spring and to be completed by March 2005 will facilitate the tracking and follow-up of enforcement activities performed by Vehicle Emissions Enforcement Unit inspectors.***

# COMPLIANCE WITH LEGISLATION AND MINISTRY POLICY

## Air Inspections

The Ministry conducts inspections of facilities that emit contaminants into the air to ensure compliance with legislation, ministry policy, and the terms and conditions of Certificates of Approval. The inspection process typically involves ensuring that facilities have the required Certificates of Approval to emit contaminants into the air and that pollution control equipment is being operated and maintained properly. In the 2002/03 fiscal year, the Ministry performed almost 500 facility inspections that had an air-related component.

We reviewed the Ministry's inspection process at three regional offices and at select district offices and noted that the Ministry did not have a formal risk-based approach for selecting facilities to inspect. Inspections can be initiated by the Ministry (proactive) or can occur in response to a public complaint (reactive). The Ministry did not distinguish between proactive and reactive inspections. To manage the inspection process properly, the Ministry needs to know the results of its proactive inspections to determine whether the selection process is effective and what steps must be taken to improve it. For example:

- At a district office that was responsible for inspecting two facilities that were among the largest air pollution emitters in the province, we noted that neither facility had a documented inspection report on file for the previous three years.
- Another district office had no documented inspections on file for the previous three years for the single largest air-polluting facility in Canada, except for an inspection of its coal pile in 2001 for dust emissions. Since the facility reported 36 air-related incidents to the Ministry in the 2002/03 fiscal year, many of which had an adverse impact on the environment, a full inspection of this facility may have been warranted. An inspection of a facility with similar emissions reduction equipment found that the equipment was ineffective because, contrary to its Certificate of Approval, the equipment was not properly operated or maintained.
- We noted that since 2002 the Ministry had not inspected one of the largest benzene-emitting facilities in the province. Benzene is a known carcinogen for which there is considered to be some probability of harm at any level of exposure. However, the selection process does not always identify such high-risk facilities for inspection. In 1999, this facility was asked to submit an emissions modelling report, but as of the time of our audit, the facility had still not provided the Ministry with an acceptable report. In addition, in the 2003/04 fiscal year, this facility notified the Ministry of 170 unusual air-related emissions and other occurrences.

In addition to not following a risk-based selection process, inspectors do not test air quality for the presence or concentration of contaminants. To assess the air quality at locations where concerns exist, inspection staff can request the assistance of one of the Ministry's mobile air-monitoring units. We noted that during the 2003 calendar year, the mobile units responded to nine of 14 requests received from the various ministry offices and responded to five emergencies. Based on our review of their usage logs, these units were in use only 20% of working days during the peak season from April to mid-October. In addition, the units took an average of 160 days to complete reports and submit them to the offices that originated the requests.

**Recommendation**

**To ensure that inspections of facilities emitting air contaminants are effective in enforcing environmental legislation, ministry policy, and the terms and conditions of Certificates of Approval, and are effective in protecting human health and the environment, the Ministry should:**

- **adopt a formal risk-based approach to selecting facilities for inspection;**
- **distinguish between proactive and reactive inspections in reporting the results of its inspections; and**
- **increase the utilization of its mobile air-monitoring units and improve the turnaround time for reporting their results.**

***Ministry Response***

***The Ministry has implemented a formal risk-based approach to inspections for 2004/05 and will continue to refine that approach over the next few years. As of June 2004, procedures were implemented to distinguish between proactive (planned) and reactive (responsive) inspections in internal tracking systems.***

***The Ministry agrees with the recommendation to increase the utilization of its mobile air monitoring units and improve the turnaround time for reporting results. Current activities and procedures will be reviewed to help improve mobile air monitoring unit utilization and streamline the reporting process.***

## Selected Targets for Air Compliance (STAC) Program

Every year a sample of approximately 30 industrial emitters are selected by the Ministry to submit facility-wide emissions information to demonstrate compliance with air quality standards and guidelines. This initiative is known as the Selected Targets for Air Compliance (STAC) program. The STAC program was piloted in the 1997/98 fiscal year and began in the 1999/2000 fiscal year. The program is intended to assess the predicted aggregate effect of all emissions from a facility as if it were running at maximum capacity, and to determine whether those predicted concentrations are within the standards and guidelines. When a facility is predicted to emit contaminants beyond an acceptable level, the Ministry may order the emitter to put in place a plan that details specific actions to be taken over a specific time frame to achieve the necessary compliance.

Between the program's inception and the time of our audit, the Ministry had made 185 requests for STAC submissions, including requests from the top 20 air-polluting facilities in the province. We reviewed a sample of the submissions subsequently received and noted the following:

- The Ministry found that almost half the facilities reviewed were predicted either to not comply with standards and guidelines or, where no standards or guidelines were in place, to produce emissions that could result in concentrations of pollutants that could have an unacceptable impact on the environment or human health. Almost half of those facilities in non-compliance were predicted to produce emissions exceeding a health-based limit. For particular contaminants, five of these facilities were predicted to emit contaminants into the air at rates that could produce concentrations more than six times higher than the acceptable limits.
- The Ministry recommended or advised many companies to use newer air dispersion models to generate their emissions estimates, because the models used to calculate the amount of pollution a facility emits are not well suited for complex facilities and may underestimate emissions. We were informed, however, that the Ministry must have a legal basis—such as damage to vegetation or to human health—to require a facility to use more accurate models. One facility stated that it recognized the superiority of a more advanced model but nonetheless based its submission on the model permitted by the relevant regulation, as it was legally acceptable.
- The Ministry did not review STAC submissions on a timely basis. Facilities are generally required to submit these reports within six months of a ministry request. For the sample of submissions we reviewed, the Ministry took from eight months to over two years to review the STAC reports. In many cases, the process was delayed because the Ministry had to request clarification or additional data. At the time of our audit, the Ministry had still not completed its review of 23 STAC reports requested between March 1999 and November 2001.
- Since the program's inception, the Ministry had approved 22 compliance plans for facilities that had predicted emissions of contaminants into the air above acceptable levels. The plans outlined a strategy for reducing the predicted emissions of contaminants emitted into the air. We reviewed a sample of these plans and noted that the time frame permitted to achieve compliance often seemed excessively long. For example, the Ministry approved three facilities' plans that made commitments to comply over five to eight years. Two of these facilities had exceedances that involved contaminants in excess of health-based limits.

**Recommendation**

**To ensure that the Selected Targets for Air Compliance (STAC) initiative is effective in identifying potentially unsafe concentration levels for air contaminants, the Ministry should:**

- **review current air dispersion models to determine whether these models more accurately predict pollution levels and, where necessary, consider requiring emitters to use the most appropriate models;**
- **review the STAC submission process to help ensure that sufficient information is provided on a timely basis; and**
- **where contaminant levels are predicted to exceed allowable limits, approve compliance plans that outline timely strategies to conform with legislated standards and ministry guidelines.**

***Ministry Response***

***On June 21, 2004, the Ministry initiated consultation on proposals to introduce new air standards, new air dispersion models, and a risk-based decision-making process aimed at balancing protection of local communities from air pollution effects with implementation barriers, such as timing, technology, and economics.***

***The Ministry is committed to reviewing the STAC program in 2004/05 to ensure submission information is provided on a timely basis.***

***The Ministry is working to ensure that plans are in place to achieve compliance as quickly as possible but does so with consideration for the complexity of these plans. Factors affecting the timing of compliance plans include the availability of technology, the significance of structural/process changes, and the level of required capital investment.***

## Environmental SWAT Team Inspections

The Ministry's Environmental SWAT Team was created in 2000 to complement the inspection work of the Ministry's district offices by conducting province-wide inspection sweeps of industrial sectors (for example, auto body shops, electroplaters, or hazardous waste facilities). Sectors are chosen for inspection using a risk assessment, based on such factors as the sector's history of non-compliance and its potential for major human health and environmental impacts. At the time of our audit, four sectors related to air had been selected for inspection, and SWAT had performed unannounced inspections on a sample of facilities in each sector.

Each facility inspected is assigned a rating of "pass" (in compliance), "administrative fail" (non-compliance involving such matters as poor record keeping), or "fail" (non-compliance that could harm human health or the environment). In the event of non-compliance, SWAT inspectors have a number of enforcement powers. Inspectors can seize property and secure contaminated sites to prevent access; issue an order to correct non-compliance; issue a ticket that carries a maximum fine of $500; or refer cases to the Ministry's enforcement staff for investigation, which could lead to charges and eventually prosecution.

SWAT inspectors review facilities for compliance with pollution prevention requirements for water and land, as well as for air. Between the program's inception and the time of our audit, SWAT had performed more than 3,000 facility inspections. Of these, 432 inspections revealed non-compliance with statutes and regulations related to air quality: 337 of these facilities were rated administrative failures and 95 as outright failures that could have harmful effects on human health or the environment.

We selected a sample of the inspections that rated the inspected facilities as outright failures and resulted in the issuance of a compliance order. These orders required a number of corrective actions to be taken. We noted that 60% of the required actions had been completed. A further 10% of the actions had not been complied with, and SWAT appropriately referred the facilities involved to the Ministry's enforcement staff for further investigation and possible prosecution. The results for the remaining 30% of the actions could not be determined, because these facilities either had not been required to report back to the Ministry or had submitted documentation that did not adequately demonstrate compliance.

Overall, the Environmental SWAT Team reported non-compliance rates of more than 70% for the facilities it inspected. However, we found that over 20% of our sample of ratings recorded in the inspection database did not match the ratings that SWAT inspectors had originally assigned in their inspection reports. In addition, the team currently measures its effectiveness only by the number of sectors selected for inspection and the number of facility inspections performed, not by assessing the inspections' impact on the environment. In the long term, to assess its effectiveness, SWAT plans to re-inspect sectors to compare compliance rates with the initial round of sector inspections.

### Recommendation

**To improve the efforts of the Environmental SWAT Team to reduce airborne threats to the environment and human health, the Ministry should:**

- **require facilities that receive a compliance order to report back on all actions taken to correct non-compliance;**
- **review input procedures to ensure the accuracy of its inspection database; and**
- **enhance program results reporting by periodically assessing the team's direct impact on emissions reduction.**

### *Ministry Response*

***The Environmental SWAT Team's standard operating procedure concerning compliance with provincial officer orders is to require confirmation by the facility owner that the work ordered has been undertaken and completed. SWAT monitors report-backs by facility owners to assess compliance progress. SWAT will undertake a review of its existing standard operating procedures as well as its current inspection files to ensure that procedures are being followed and compliance follow-up is occurring as required.***

***SWAT will assess the data input into the information system to ensure data quality, accuracy, and integrity. Deficiencies identified by SWAT staff will be addressed for correction. With enhancements to the system currently under development (to be completed by March 2005) and close monitoring of data quality through existing business practices, SWAT will be able to better monitor compliance progress and ensure the accuracy of data input.***

***The Ministry agrees that the development and implementation of outcome-based performance measures can be used to assess and enhance the effectiveness of Ministry inspection programs including SWAT. The Ministry is currently developing such measures.***

## MINISTRY OF THE ENVIRONMENT

# 3.05–Groundwater Program

## BACKGROUND

The Ministry of the Environment has a broad mandate to restore, protect, and enhance the environment to ensure public health, environmental quality, and economic vitality. This responsibility is to be carried out through activities that monitor, assess, and enforce compliance with legislation and ministry policies. The Ministry's specific responsibilities related to groundwater are to manage and protect the resource as well as to promote the sustainable use of groundwater. The Ministry estimated that, for the 2003/04 fiscal year, it spent approximately $18 million on groundwater-related activities.

Groundwater is defined as water located below the surface in soil, sand, and porous rock formations known as aquifers. Groundwater recharges watersheds, which are networks of rivers and streams that drain into larger bodies of water such as the Great Lakes. Groundwater is the primary source of drinking water for almost three million residents of Ontario. More than 200 municipalities have groundwater-based systems that provide water to residential users as well as for industrial, commercial, and institutional uses. In addition, approximately 500,000 private wells provide 90% of Ontario's rural population with water for drinking, irrigation, and other uses.

The Ministry is also responsible for acting on the recommendations made by Justice O'Connor from the Walkerton Inquiry. This inquiry, which reported in 2002, was prompted by the deaths and illnesses that resulted in May 2000 from the town of Walkerton's contaminated water supply. Justice O'Connor's recommendations included the development of drinking-water-source protection plans, the setting of water quality standards, the operation of water treatment and distribution systems, and ongoing monitoring.

The Ministry administers a number of acts associated with groundwater, including the *Ontario Water Resources Act*, the *Safe Drinking Water Act, 2002*, the *Environmental Assessment Act*, and the *Environmental Protection Act*. The Ministry also administers the *Nutrient Management Act, 2002* jointly with the Ministry of Agriculture and Food. Nutrients consist of chemical fertilizers as well as human and animal waste, which are often used to enhance crop growth but can have an adverse impact on groundwater if used improperly.

## AUDIT OBJECTIVES AND SCOPE

The objectives of our audit of the groundwater program were to assess whether the Ministry had adequate procedures in place to:

- manage the resource for sustainability;
- ensure compliance with related legislation and ministry policies; and
- measure and report on the program's effectiveness in restoring, protecting, and enhancing the resource to ensure public health.

The scope of our audit fieldwork, which was substantially completed by March 2004, included discussions with relevant staff, as well as a review and analysis of documentation provided to us at the Ministry's head office and regional and district offices. We also held discussions with staff from conservation authorities and the Environmental Commissioner's Office, as well as from the ministries of Natural Resources, Northern Development and Mines, and Agriculture and Food. In addition, we reviewed practices and experiences in other jurisdictions with respect to groundwater protection. Our audit further included a review of the activities of the Ministry's Internal Audit Services Branch. However, we did not reduce the scope of our audit work because the Branch had not issued any recent reports on the Ministry's administration of the groundwater program.

The criteria used to conclude on our audit objectives were discussed with and agreed to by ministry management and related to systems, policies, and procedures that the Ministry should have in place.

Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

## OVERALL AUDIT CONCLUSIONS

Although the Ministry had gathered information on groundwater resources from various areas of Ontario, it still lacked an overall understanding of groundwater resources in the province as a whole. Without such an understanding, the Ministry could not determine whether it had succeeded in achieving or failed to achieve the protection and long-term sustainability of Ontario's groundwater resources. Overall, the Ministry did not have adequate procedures in place to restore, protect, and enhance groundwater resources to ensure public health and the availability of the resource for future generations. Specifically, we noted the following:

- While the Ministry has been carrying out watershed studies since the 1940s, it did not yet have watershed management plans to ensure groundwater resources are protected. The Ministry estimated that its latest attempt to have conservation authorities develop watershed-based source protection plans will result in six of 36 plans being put in place by the 2007/08 fiscal year. Current attempts to implement source protection plans will take several years, and, in the meantime, the quality of the groundwater resources in Ontario may continue to deteriorate.

- In May 2000, rains washed animal waste from a nearby farm into a municipal drinking-water well in Walkerton, claiming seven lives and causing thousands of water-related illnesses. The farmers of Ontario's 1,200 largest farms are now required to have plans in place for dealing with agricultural waste by July 1, 2005. For an additional 28,500 farms that produce enough waste to pose a potential problem, a process is to be developed by 2008 to phase in nutrient management planning.
- The Ministry has determined that, since the 1950s, well water in Ontario has shown a pattern of declining water quality. We noted examples of municipal well-water test samples that had unusually high concentrations of *E. coli* and other fecal coliform bacteria. The Ministry contends that treatment will remove these substances from the groundwater used for drinking purposes. However, and as noted by Justice O'Connor in his Walkerton Inquiry Report, given that "some contaminants are not effectively removed by using standard treatment methods" and some rural residents do not have access to treated water, it is extremely important that source water be protected to provide safe drinking water.
- We noted that the Ministry has had little assurance that drinking-water wells are properly installed and maintained since it discontinued its water well inspection program in 1997. Most problems associated with improperly installed and maintained wells are brought to the Ministry's attention through complaints. We noted several examples of improperly installed and maintained wells, including wells that were constructed by individuals without a valid well contractor's licence.
- The Ministry has issued more than 2,800 permits to take water for a total potential withdrawal of 9 billion litres of groundwater a day. The Ministry's assessment and evaluation of applications for groundwater-taking permits were inadequate. In addition, the Ministry did not monitor compliance with these permits and did not have sufficient information to evaluate the cumulative impact of water takings on the sustainability of groundwater.
- In its response to our 1996 audit of its Environmental Sciences and Standards Division, the Ministry committed to review groundwater management and protection in the province and develop a groundwater management strategy. However, a groundwater management strategy had still not been developed.

***Overall Ministry Response***

***The report on the audit of the groundwater program offers many constructive comments and recommendations regarding the Ministry's role and responsibilities related to groundwater management and protection.***

***The Ministry is pleased to note that many of the recommendations in the report are being addressed through the development and implementation of a province-wide watershed-based source protection program, including the establishment of Ontario's first mandatory province-wide source protection legislation and improved management of water takings.***

***The Ministry will be developing a province-wide program that ensures source protection plans are developed and implemented locally in watersheds throughout Ontario.***

***The Ministry has established two multi-stakeholder advisory committees tasked with providing advice to the government on the implementation and technical aspects of source protection. The work of both of these committees is expected to be finished in fall 2004. Their recommendations will provide a basis for the development of the implementation provisions of source protection legislation.***

***The government is also proposing tough new rules for water takings that will protect the supply of drinking water. The proposed changes are part of the province's overall water strategy, one characterized by moving to a watershed-based approach to guide planning and use of Ontario's water resources.***

***Detailed responses to the specific findings can be found in the body of the report.***

# DETAILED AUDIT OBSERVATIONS

## *PLANNING FOR GROUNDWATER MANAGEMENT*

As a result of the Walkerton Inquiry, Justice Dennis O'Connor issued reports in January and May 2002 making recommendations for improving Ontario's water system from "source to tap." The government of the day and the current government have accepted these recommendations and have committed to their implementation.

Of the 121 recommendations made by Justice O'Connor, the Ministry identified 22 that specifically related to the protection of source water, including groundwater. These recommendations included the development of source protection plans and requirements that development decisions be compatible with these plans. The Ministry of the Environment was to be the lead provincial agency in establishing a framework for developing source protection plans. In addition, the Ministry was to help fund and participate in the development of the plans and approve completed plans. The plans for protecting water sources were to be based on watersheds, which are areas of land that drain downward in elevation into a lake or river.

Groundwater management planning is designed to mitigate the many human activities that have the potential to contaminate groundwater resources. Contamination occurs when water and other fluids, such as chemicals, move from the surface into groundwater. Chemical contaminants may include fertilizers, pesticides, substances leached from landfills, industrial discharges, gasoline leaked from storage tanks, and discharges from improperly maintained septic tanks. Many of these chemicals, even at low concentrations, render groundwater highly undesirable or unusable as a source of domestic or public water supply. For example, Environment Canada has determined that just one litre of gasoline can contaminate 1 million litres of groundwater. With a threat of this magnitude, it is of paramount importance that the Ministry have groundwater management and protection strategies in place to ensure the future sustainability of the groundwater supply.

We reviewed five aspects of groundwater management: watershed-based planning for the protection of water sources; groundwater management studies; the mapping of aquifers; nutrient management plans; and contaminated groundwater.

## Watershed-based Source Protection Planning

Watershed-based planning is a process for protecting groundwater, lakes, streams, and wetlands within a watershed from pollution. The process requires developing an understanding of activities that affect water quality and groundwater levels within the watershed. From this understanding, a plan is developed to prevent, reduce, or minimize any adverse impacts of those activities.

Conservation authorities were first established in Ontario in 1946, with jurisdiction over natural areas based on watersheds. There are now 36 conservation authorities in the province governed and financed by local municipalities. Since conservation authorities were established, there have been many attempts to implement watershed-based protection plans. Most recently, in 1993 the ministries of the Environment and Natural Resources released three guidance documents to provide conservation authorities and municipalities with advice on how to voluntarily develop watershed protection plans. In April 2002, a report was jointly issued by the Ministry of the Environment, the Ministry of Natural Resources, and Conservation Ontario. This report updated the methodologies and watershed management processes used in the 1993 guidance documents and included a summary of the status of watershed planning in Ontario. However, the Ministry does not know how many plans were completed and has not reviewed or monitored the implementation of any plans that were finalized to determine whether they are sufficient to address environmental risks.

In April 2003, the Ministry obtained policy advice from its Advisory Committee on Watershed-Based Source Protection Planning. Based on the recommendations of this committee, the Ministry established further committees in November 2003 to review source protection. The committees' work was to be completed and a report submitted to the government by the fall of 2004. Following the submission of the report, the Ministry intends to undertake further consultations with stakeholders and the public. Further consultation with the public is to take place in response to the Ministry's *White Paper on Watershed-based Source Protection Planning*, which was released in February 2004. The consultation is expected to result in the refinement of Ontario's policy and legislative framework for source protection planning.

The Ministry anticipates that six of the 36 conservation authorities will complete source protection plans by the 2007/08 fiscal year and hopes to have interim strategies established for the other 30 conservation authorities at that time. The Ministry has not established a time frame for the completion of the other 30 source protection plans. Until these source protection plans and interim alternatives are in place to provide direction for development projects and other activities, the province is currently at risk of not adequately protecting, preserving, and restoring groundwater resources.

A 1993 study on watershed management noted that water management has traditionally been issue-driven and segmented among jurisdictions, making it difficult, costly, and not particularly effective. Current attempts to implement source protection plans will take several years, and, in the meantime, the quality of the groundwater resources in Ontario may continue to deteriorate. In addition, since source protection efforts were being undertaken on a voluntary basis by municipalities and conservation authorities, these measures may not be sufficient to protect groundwater resources. Consequently, the Ministry needs to play a more proactive role by developing an overall province-wide strategy to ensure that groundwater resources are being protected from current threats of contamination and threats to sustainability.

## Groundwater Management Studies

Groundwater management studies are designed to collect data for developing an information base on local groundwater conditions and to document potential environmental risks. Such studies provide information necessary to the development of source protection plans. In 1998, as part of a source protection initiative, the Ministry began providing funding for groundwater management studies, and to date it has provided $19.3 million to assist municipalities in undertaking local studies to review the long-term use and protection of groundwater resources.

Although 97 groundwater management studies had been funded at the time of our audit, only 44 final reports had been submitted to the Ministry. The Ministry expects that the rest of the reports will be submitted by December 2004. We noted that the Ministry was having difficulty reviewing and interpreting the reports because there were inconsistencies in the information provided and the level of detail included. Such inconsistencies make it difficult to, for example, input relevant information into the Ministry of Natural Resources' computerized geographic information system, develop a comprehensive inventory of contaminants, and determine to what extent contaminants are affecting groundwater resources.

## Groundwater Aquifer Mapping

To promote and enhance the proper development, management, and protection of groundwater resources, the Ministry needs detailed three-dimensional maps showing the depth and boundaries of aquifers, the location of wells, groundwater flow patterns, and other geological characteristics, such as the water-absorption capacity of the rock involved. Information from aquifer mapping makes it possible to determine the maximum amount of water that can be withdrawn without threatening the aquifers' sustainability. This information is also important in gauging the potential impact of contamination—once an aquifer is contaminated, it may be unusable for decades. If the contamination is chemical, it could take thousands of years for the aquifer to recover naturally, and, depending on water flow patterns, the contamination could pollute other aquifers as well as surface water.

The only aquifer maps that the Ministry has are the partially completed Major Aquifers in Ontario Map Series published between 1973 and 1978. Based on the limited data available at the time (primarily well records), these maps attempted to identify aquifers in terms of their geographic area and groundwater yield potential. However, this series was never completed and covers only parts of eastern and central Ontario.

The Ministry also has maps that were produced for specific purposes, such as evaluating development proposals or reviewing applications for a gravel quarry. The information from these maps is site specific and does not, and was not intended to, include aquifer-wide information sufficient to properly manage the resources to ensure their sustainability.

In 2001, the Ministry of Northern Development and Mines started a multi-ministry aquifer-mapping program to characterize aquifers and accumulate information on Ontario's groundwater resources. This program is expected to identify, for each aquifer, the location, thickness, area, types of rock, sustainable water yield, and interconnections with other aquifers, as well as recharge and discharge areas. Such maps, on a provincial basis, can help identify the level of management and protection an aquifer requires. There is no timetable for completing the aquifer-mapping program, and we were informed that it could take several decades to complete the mapping of Ontario aquifers.

## Nutrient Management Plans

Chemical fertilizers as well as human and animal waste are agricultural nutrients often used to increase crop yields. The excessive use or improper treatment of these nutrients can lead to imbalances in the soil, runoff into streams, and pollution in nearby wells. The objective of nutrient management is to ensure nutrients are used in ways that minimize any adverse impacts on human health and the environment.

To help address the Walkerton Inquiry recommendations for source protection from agricultural nutrients, the Ministry put in place the *Nutrient Management Act, 2002,* responsibility for which is shared between the Ministry of Agriculture and Food and the Ministry of the Environment. The purpose of the new Act is to achieve the above objective of nutrient management so that both the natural environment and agricultural operations have a sustainable future. In general, the Ministry of Agriculture and Food will be responsible for receiving, reviewing, and approving the nutrient management plans that are to be submitted by farmers, and the Ministry of the Environment will be responsible for the enforcement of the Act.

A regulation under the Act requires that farm operations that produce a significant amount of animal waste have a nutrient management plan in place. Of the 60,000 farms in Ontario, approximately 29,700 produce or utilize sufficient waste to require a plan. The 1,200 largest farms in the province must have a nutrient management plan in place by July 1, 2005. The Ministry and the Ministry of Agriculture and Food are to develop a process by 2008 to phase in nutrient management planning for 28,500 other farms that produce enough waste to pose a potential contamination threat.

As of March 31, 2004, we noted that only 32 of the 1,200 large farms in the province had submitted a nutrient management plan, and only five plans had been approved. Also, at the time of our audit, the Ministry had not yet developed risk-based enforcement procedures for periodically reviewing compliance by farmers with their approved nutrient management plans and for monitoring those farms that do not require a plan until 2008.

## Groundwater Contamination

In 1985, the government established the Environmental Clean-up Fund to deal with contaminated sites in order to contain the damage and minimize the environmental and health risks associated with the contamination. Of the 250 contaminated sites that are part of the Fund, 120 relate directly to groundwater sources.

Research from other jurisdictions indicates that efforts to clean up contaminated groundwater sites in both Canada and the United States have, for the most part, been ineffective, despite large expenditures. Following this pattern, since 1985, despite approximately $180 million being paid out by the Fund with respect to contaminated sites, many groundwater resources in the province have been lost due to contamination.

People in some areas have resorted to drinking bottled water as a temporary measure and then piping in surface water across large distances.

Examples where groundwater has not been adequately protected, resulting in high costs and putting in doubt future sustainability, include the following:

- In 1989, Elmira's groundwater supply was contaminated with a toxic chemical that leaked from a local chemical plant. The remediation period to restore drinking water from the groundwater aquifer could take more than 30 years, so arrangements were made to have water piped in from the Waterloo Region. Total costs for remediation and providing an alternative water supply are estimated to be $50 million.
- In Smithville, more than 30,000 litres of high-strength PCB oils leaked from a storage facility into the fractured bedrock and groundwater below the facility site. Since 1985, when the Ministry assumed ownership of the site, it has spent approximately $50 million to clean it up. However, complete remediation is not currently possible, since the technology necessary to clean up the bedrock has yet to be developed.
- In 1979, the Ministry assumed control of an abandoned mine site in the Village of Deloro after surface and groundwater resources were contaminated by radioactive waste, arsenic, lead cobalt, mercury, and other metals. By the completion of our audit in March 2004, the clean-up costs were over $20 million, of which the Environmental Clean-up Fund paid $8 million, with an additional $40 million estimated to be needed to complete the remedial work by the 2008/09 fiscal year.
- In 1995, the Ministry and the Hamlet of Port Loring proceeded to build a communal water system because the village's groundwater was contaminated by gasoline from underground storage tanks. Approximately 40 private wells were found to have benzene levels that exceeded acceptable standards, and additional properties were thought to be at risk. Remediation costs for constructing a communal water supply system from a groundwater source outside the contaminated area, as well as the costs for providing bottled water in the meantime, were estimated to total $2.7 million.

These occurrences highlight the potential risk for groundwater resources being lost, perhaps forever, when polluted by toxic chemicals. Even though the Ministry uses its enforcement powers to promote compliance with environmental laws, the Ministry's efforts are predominantly reactive, resulting from following up complaints and attending to chemical or other spills after they have occurred. The costs incurred to clean up groundwater resources that have been contaminated may far exceed those incurred to implement preventive measures. Preventive measures can be effectively implemented only if the key risks and potential threats to groundwater contamination are known and remedial strategies are appropriately planned.

**Recommendation**

**To ensure that groundwater resources are protected from existing threats of contamination while new protection measures are put in place, the Ministry of the Environment should:**

- **review the existing source protection plans and any other measures in place at each conservation authority and consider developing an overall strategy for protecting the province's groundwater resources from current contamination threats;**
- **establish a clear timetable for the completion of all watershed-based source protection plans and for the implementation of any required protection measures;**
- **consolidate, in a medium such as the Ministry of Natural Resources' geographic information system, information from the groundwater management studies done by municipalities and verify the completeness of each study;**
- **incorporate into its information system and source protection plans the information generated by the Ministry of Northern Development and Mines with respect to its aquifer-mapping project;**
- **develop risk-based inspection procedures to ensure the compliance of farms required to complete a nutrient management plan by July 1, 2005 and consider monitoring farms that do not require a plan until after 2008; and**
- **identify groundwater pollution sources on a timely basis so that remedial action can be taken before serious contamination occurs.**

***Ministry Response***

***The government has proposed a legislative framework for the development, review, and approval of source water protection plans, in addition to ways to enhance Ontario's management of water takings. While source protection planning is currently undertaken on a voluntary basis, source protection legislation, once proclaimed, will make watershed-based source protection planning mandatory across the province. The Ministry will be developing a province-wide program that ensures source protection plans are developed and implemented locally in watersheds throughout Ontario.***

***On June 23, 2004 the Ministry posted a proposed*** **Drinking Water Source Protection Act** ***on the Environmental Bill of Rights Registry for a 60-day comment period. The draft source protection planning legislation establishes a framework for the development of source protection plans that will protect human health by ensuring that current and future sources of drinking water in Ontario's inland lakes, rivers, and groundwater and the Great Lakes are protected from potential contamination and depletion. Assessing the quality of groundwater and identifying risks to groundwater (e.g., sources of contamination) will be a key component of the source protection planning process. The government will be establishing specific assessment report criteria for regulation and is currently developing a provincial threat***

***assessment process. The assessment process will be supported by technical guidance documents prepared by the Ministry and the Ministry of Natural Resources. The source protection program will also include a monitoring component, focused on high-risk areas, including groundwater supplies.***

***The Ministry will be developing a province-wide program that ensures source protection plans are developed and implemented locally in watersheds throughout Ontario. The Technical Experts and Implementation committees are developing approaches to implementing those components of source protection that will provide the most protection against significant threats to drinking water and are anticipated for delivery over the next three years. Priority components could include wellhead protection zones for municipal (residential) systems using groundwater; intake protection strategies for municipal (residential) systems using surface water; aquifer protection areas to provide greater protection for municipal residential supplies but that will also benefit other supplies (i.e., private supplies, non-municipal residential, and municipal non-residential); and water budgets. The work of both of these committees is expected to be finished in fall 2004. Their recommendations will provide a basis for the development of the implementation provisions of source protection legislation.***

***The main purpose of the groundwater studies is to provide communities with the information they need to take action to protect their groundwater sources. The Ministry will look to strengthen external partnerships to manage and provide access to the information that is critical to support local and regional decision-making on source protection.***

***The Ministry has been working with the Ministry of Northern Development and Mines (MNDM) to ensure that information produced by previous groundwater studies is integrated and built upon through subsequent aquifer mapping. As part of the design and implementation of the Provincial Groundwater Monitoring Network, draft aquifer maps were prepared for the province's 36 conservation authority watersheds and 10 municipal area watersheds. At the same time, the MNDM has initiated the mapping of Ontario's aquifers on a regional scale. The Ministry will initiate a project to finalize and publish the watershed aquifer maps and all other associated groundwater maps used for the network design and make these accessible to all municipalities, conservation authorities, and other ministries in a digital form. Two hydrogeology reports,*** The Hydrogeology of Southern Ontario ***and*** An Assessment of the Groundwater Resources of Northern Ontario, ***were recently prepared by the Ministry and are in the process of being approved for release to the public. These reports describe the occurrence, distribution, quantity, and quality of groundwater in the northern and southern regions of Ontario. The aquifer maps and accompanying descriptions of groundwater resources are critical pieces of information to these studies. Municipalities and conservation authorities will not have to reproduce the work contained in the reports and as such should recognize significant savings. It is expected that these reports will be recognized as a major contribution by the Ministry to groundwater***

***management in Ontario, as they compile all available pertinent groundwater characteristics and geology data for the province for the first time.***

***The Ministry has always done incident response for all farms, including complaint response, spill response, and advice or mediation relating to legislated and regulatory requirements. The Ministry will continue to do so, whether or not farms require a plan. Dedicated Ministry agricultural compliance officers have been on farms ensuring compliance with the*** **Nutrient Management Act, 2000** ***and regulation since September 2003. This regulatory compliance function includes incident response and farm inspections for farm and non-farm nutrients and an after-hours environmental response program. As of July 2005, these officers will monitor large livestock operations based on nutrient management plans approved by the Ministry of Agriculture and Food. As more diagnostic information becomes available, the Ministry will develop a risk-based approach for farm inspections based on the Ministry's Operations Division's risk-based approach introduced in 2004/05.***

***Risks to all sources of drinking water, including groundwater, will be identified using a provincially established threat assessment process. Requirements for undertaking an assessment report, which will include standards for assessing both the quality and the quantity of groundwater, will be developed by the two multi-stakeholder advisory committees tasked with providing advice to the government on the implementation and technical aspects of source protection. Their recommendations will inform the development of the implementation provisions of source protection.***

## MONITORING GROUNDWATER QUALITY

Approximately 3 million residents of Ontario rely on groundwater as their drinking water source. Of these, approximately 1.8 million use groundwater from private wells, while the remainder derive their water from municipal groundwater-based systems. The Ministry does not have any data on the number of illnesses caused annually by contaminated groundwater. But contaminated water can be the direct cause of infections, gastrointestinal problems, liver damage, and even death.

### Drinking-water Wells

There are over 500,000 private and public wells in the province. The most common reasons for contamination of well water are substandard well construction, poor maintenance, and building a well in an inappropriate location. Minimum standards for locating, constructing, maintaining, and decommissioning both public and private wells are set out in Regulation 903 under the *Ontario Water Resources Act*.

Regulation 903 requires that all new wells be installed by ministry-licensed well contractors. There are approximately 800 such contractors in Ontario. Well contractors must complete and submit to the Ministry a water well record when a new well is installed. An improperly installed well could allow contaminants to enter the water supply. Until 1997, the Ministry inspected new wells and ensured that all wells were constructed by a licensed contractor. However, since that time the Ministry has discontinued this practice and does not inspect new wells. There are also no ministry checks to verify that the person constructing a well is licensed. We noted several examples where wells were installed by persons who did not have a valid well contractor's licence. Most problems associated with improperly installed wells are brought to the Ministry's attention through complaints. Thus, the Ministry has little assurance that all new wells are properly constructed.

Proper maintenance of wells is also critical for preventing contaminants from entering the water supply. For example, a ministry inspector by chance noted that a well serving several rental properties was not properly maintained and that as a result, surface water could enter the well; also, several animals had died in the well. *E. coli* bacteria were present in water samples from this well at levels greatly exceeding the drinking-water standards. Proper maintenance is particularly essential for older wells. Those that are 50 years old are likely to be shallow and located at the centre of a property, where they may be surrounded by potential contamination sources. Also, the casings used in wells that are more than 20 years old (over 50% of the wells in the province were constructed before 1980) are subject to corrosion and perforation. However, unless there is a complaint, the Ministry may not be aware of pollution problems associated with poor well maintenance.

In the past, ministry well inspectors inspected abandoned well sites to ensure that proper well abandonment procedures had been followed. Such procedures included proper sealing against contaminants that could enter the well and, through the groundwater, pollute other wells. Inspection of abandoned wells was discontinued in 1997, with the result that the Ministry has little assurance that abandoned wells are properly sealed.

## Groundwater from Municipal Waterworks

The Ministry has determined that, since the 1950s, well water in Ontario has shown a pattern of declining water quality. The events in Walkerton in May 2000 that claimed seven lives and caused thousands of water-related illnesses further contributed to making water-quality issues a priority concern. Since the Walkerton Inquiry, the Ministry has set up various water-monitoring programs, including establishing minimum sampling, analysis, and reporting requirements for each water system; inspecting each municipal water system annually; and requiring water-testing laboratories to automatically report test results to the Ministry. The purpose of the monitoring programs is to identify factors that affect water quality, track the extent and magnitude of these impacts, and provide data for effectively managing the resource.

The Ministry monitors the water samples from municipalities' systems through its Drinking Water Information System, which contains test samples of raw water (untreated or source water) and treated water (water that has been processed and is ready for distribution). Treatment can remove unwanted substances from raw water, rendering it safe in accordance with Ontario drinking-water standards. However, if water treatment fails, as was the case in Walkerton in 2000, threats to human health could result. Moreover, finding high concentrations of certain high-risk substances such as *E. coli* and other fecal coliform bacteria indicates a potential weakness in an area's source protection, which could be a concern even if treatment renders the water safe for drinking.

Ontario's drinking-water standards require that there be no *E. coli* or other fecal coliform bacteria in drinking water. We had the Ministry provide us with a list of raw-water test results for these bacteria from groundwater sources in the period from June to December 2003. We noted that there were 373 cases where municipal raw-water tests showed concentrations of *E. coli* and other fecal coliform bacteria present in the water. Test results for this untreated water ranged from one organism to a high of 620 organisms per 100 millilitres of water, with 10 cases having more than 100 organisms per 100 millilitres of water. Effective municipal treatment would remove these contaminants from the groundwater used for drinking purposes. However, and as noted by Justice O'Connor in Part Two of the *Report of the Walkerton Inquiry*, the protection of source water is the first step in providing safe drinking water and as such is extremely important because "some contaminants are not effectively removed by using standard treatment methods" and some rural residents who do not have access to treated water rely on untreated groundwater from wells for drinking.

## Groundwater from Private Wells

While the Ministry carries out routine inspections of municipal drinking-water facilities, the Ministry does not routinely inspect the water quality in private wells supplying water to Ontario's rural population. A private well may be inspected as a result of a complaint, but, according to the Ministry, the ongoing monitoring of water quality in these wells is the responsibility of the owner.

The only major ministry research pertaining to the quality of groundwater from private wells was a 1992 study of 1,300 Ontario farm wells that was sponsored by the federal Department of Agriculture and Agri-Food Canada in partnership with the Ontario ministries of the Environment and Agriculture and Food. The study indicated that about 40% of the wells contained one or more of the contaminants tested—such as *E coli* and other fecal coliform bacteria, nitrate, and pesticides—in concentrations above the provincial drinking-water standards that existed at that time. No other studies have been done to update this information to determine whether the water quality has improved or deteriorated further. The Ministry informed us that the results of this 12-year-old study are still used when referring to groundwater quality in rural agricultural areas.

Private wells that are in the vicinity of municipal wells that showed high concentrations of high-risk substances in raw-water tests may have similar contamination problems. While this risk is mitigated at municipal wells through appropriate treatment, private-well users may not be aware of the test results and the need to treat their water accordingly. The Ministry did not have a process in place for informing private-well users of high concentrations of *E. coli* and other bacteria in untreated water at nearby municipal wells, so such users may be at risk of drinking contaminated water and contracting water-related illnesses.

## The Provincial Groundwater Monitoring Network

The Provincial Groundwater Monitoring Network was established in 2000 at a cost of $6 million to collect data regarding baseline groundwater quality from approximately 380 wells. The Ministry intends to use the Network to track water quality over time. The wells being monitored are located in areas where water quantity and quality are not affected by other wells in the area and therefore can be measured independently of short-term fluctuations and contaminant movement. While the wells themselves do not supply drinking water, many are located in aquifers that provide drinking water. The Ministry intends to test samples for chemical parameters every six months in high-risk areas and annually in other areas. At the completion of our audit in March 2004, the Ministry had results from 177 of the 380 monitoring wells, with samples from the remaining wells either at the Ministry's laboratory for testing or still being collected. The Ministry's analysis and interpretation of the test results were in the early stages. The Ministry informed us that a report on these test results would be released in late fall 2004.

**Recommendation**

**To ensure that Ontarians have a groundwater supply that is safe and clean to drink, the Ministry should:**

- **verify that the persons installing new wells are licensed well contractors;**
- **randomly inspect new, existing, and abandoned wells to ensure that they are properly installed, maintained, and sealed in order to prevent contaminants from entering the water supply;**
- **consider expanding its monitoring program to include a sample of private wells in high-risk areas and inform potentially affected users in the area of any adverse raw-water test results; and**
- **review the concentrations of high-risk substances, such as *E. coli* and other fecal coliform bacteria, in raw water, determine the sources of the contamination, and develop remedial strategies to correct the problem.**

***Ministry Response***

***Ontario's standards under Regulation 903 of the* Ontario Water Resources Act *for well construction, maintenance, and abandonment now match or exceed those in other leading jurisdictions in North America. Justice O'Connor indicated that rural households have an obligation to construct and decommission wells properly and that government could play an important role in providing information to the public on such topics as wells and their protection, water treatment options, and good sanitation practices. The Ministry recognizes that the regulation requires an appropriate level of provincial oversight in order to be effective.***

***The Act states that all persons installing new wells are to be licensed well contractors. The Ministry uses several methods to clarify the requirements of the regulation and make it an effective tool for drinking-water protection for private-well owners. For example, the Ministry updated and made available four "Fact Sheets" on well construction and, in partnership with the Ontario Groundwater Association, held multiple information sessions on the regulation for well drillers. The Ministry also intends to provide more information on the contents and requirements of the regulation in plain language.***

***The Regulation sets standards for well siting, construction materials, and methods for all wells, including private wells. When a well is constructed or abandoned, a record (including well location) must be submitted to the Ministry. The Ministry's database currently contains more than 550,000 well records. These records can be accessed by location/area to address a variety of groundwater protection program needs (for example, municipal groundwater studies, spills response). The Ministry will put procedures in place to ensure that well records submitted are by licensed well drillers. The Ministry has also undertaken a pilot project within the Ottawa area in order to develop an overall compliance strategy to ensure wells are properly installed and maintained.***

***The Ministry has successfully established a province-wide groundwater monitoring network to monitor changes in water supplies and water quality on a regional scale in the major aquifers in Ontario. It is the Ministry's intention to further review the current network with partner municipalities and conservation authorities to identify more specific areas that could be subject to stress and potential water-quality problems and to optimize the network to address such needs. As part of such a review, future source protection requirements (which are yet to be developed, but which could potentially include identification of private wells that are located in high-risk areas) and responsibilities of the partner municipalities and conservation authorities, as well as those of the province, will have to be considered.***

***Assessing the quality of groundwater and identifying risks to groundwater (for example, sources of contamination) will be a key component of the assessment process within the mandatory source protection planning framework. The government will be establishing specific assessment reporting criteria for***

***regulation and is currently developing a provincial threat assessment process that will support the assessment and identification process. Source protection planning will also include a monitoring component, focused on high-risk areas, including groundwater supplies.***

***Through the source protection planning process, information related to measurements of the quality and quantity of surface water and groundwater will be made publicly available through the assessment reporting process. In addition, landowners with private wells residing in sensitive areas will directly benefit from source protection planning and implementation measures. For example, education and outreach programs will be put in place to ensure landowners are notified that they reside in a sensitive area. The development of education and outreach programs by the Ministry is consistent with recommendations made by Justice O'Connor on source protection.***

## MANAGING GROUNDWATER FOR SUSTAINABILITY

The public demand for groundwater continues to escalate due to population growth, climate change, and competing interests and priorities among the agricultural sector, municipalities, recreational users, and natural habitats. Because of these stresses, the Ministry's challenge is how to manage groundwater resources to ensure that all Ontarians have access to clean and sustainable groundwater.

The sustainability of groundwater resources can be threatened by many factors, including decreases in groundwater storage levels, reductions in streamflows that feed groundwater aquifers, loss of wetland ecosystems, and changes in groundwater quality. The greatest of these threats are the drawdown of water levels in aquifers, affecting the long-term capacity to provide water to wells, and the contamination of aquifers, making the groundwater unusable for drinking.

A first step towards groundwater sustainability is to have a groundwater management strategy that would protect the quantity and quality of groundwater in the province. After our 1996 audit of the Environmental Sciences and Standards Division, the Ministry committed to review groundwater management and protection in the province. The objective of this review was "to develop an overall groundwater management strategy based on a common set of management and protection principles and a clearer delineation of roles and responsibilities among provincial agencies, local/regional and non-governmental groups." During our 1998 follow-up, the Ministry informed us that a groundwater strategy had not yet been finalized.

Although the Ministry has had sufficient time to complete a groundwater management strategy, there was still not one in place at the completion of our audit in March 2004, and the Ministry did not provide a date for when one would be put in place. Without a groundwater management strategy, it is difficult for the Ministry to plan for, develop, and implement the procedures necessary to ensure a clean and sustainable groundwater supply.

## Permits to Take Water

Water takings in Ontario are governed by the *Ontario Water Resources Act* and regulations. Any person taking more than 50,000 litres of water a day from either surface or groundwater sources requires a ministry-issued permit to take water. The majority of the groundwater permits are issued for municipal drinking water and agricultural irrigation. The purpose of the permit system is to promote fair sharing of water supplies, help ensure the sustainable use of water resources, protect the natural functions of the ecosystem, and help the Ministry to better plan for and manage the usage of water resources. As at March 31, 2004, the Ministry had issued approximately 2,800 permits for groundwater, for total maximum takings of about nine billion litres a day.

In December 2003, a regulation under the Act put a moratorium on certain takings and uses of water until December 31, 2004. This moratorium applies only to new permits to take water for certain types of manufacturing. Holders of existing permits may renew their permits provided that the maximum amount of water allowed to be taken is not increased.

We reviewed the Ministry's assessment and evaluation of applications for groundwater-taking permits against its policies and regulatory requirements. We found that the policies and requirements were inadequate to ensure the protection and future sustainability of groundwater resources. The following are some of the major weaknesses we observed:

- For large groundwater takings, the applicant must submit a hydrogeologic report that identifies the potential impact of the proposed water taking on groundwater resources. We noted many instances where a hydrogeologic report was not on file. In cases where there was a report, many of the reports were more than 10 years old. For example, the hydrogeological report submitted to support a 2003 renewal application had been done in 1989. We found no evaluation of the relevance of such old reports when renewals or new water permits were issued in the same areas where the hydrogeologic studies were conducted. For example, in the case of the 2003 renewal application cited above, the ministry approval quoted testing results from the original report with no evaluation of the current relevance of those results.
- A regulation under the Act effective from 1999 onwards states that in evaluating a permit to take water, the Ministry shall consider the protection of the natural functions of the ecosystem and the surface water that may affect or be affected by the proposed groundwater taking. A majority of the files that we reviewed where permits had been renewed since 1999 did not have the required evaluation and

assessment of the cumulative impact of all groundwater users. Assessments that were done were specific to the site of the water taking, without any determination of the cumulative impacts that the taking of water has had on an aquifer or watershed as a whole.

- For the majority of the permits that we reviewed, there was no documentation on file that the Ministry had monitored the actual water taken by individual permit holders to ensure that the permit holder did not extract more water than was allowed by the terms of the permit.
- The Ministry did not follow up on holders of expired permits to determine whether they were still extracting groundwater. Without such follow-up, the Ministry cannot accurately estimate total water takings in any given area when reviewing new permit applications.
- The Ministry lacked the information needed to properly assess the total water takings by all permit holders. The Ministry maintains information with respect to the maximum amount of groundwater allowed to be taken by individual permits, but it does not track the actual amounts of groundwater taken by the permit holders. Although groundwater takers themselves are required to maintain records of the amount of water taken, they do not need to submit these reports to the Ministry unless a special condition of the permit or a request by the Ministry requires that they do so. We noted that even when submission of the report was required, most files did not contain the reports. Information on amounts of water taken would help the Ministry manage groundwater takings and determine the cumulative impact of all users on groundwater resources. Other jurisdictions in Canada and the eastern United States require that permit holders report the actual amounts of water taken on a daily, monthly, or annual basis.

## Groundwater Sustainability

Permission to take groundwater is generally given on the condition that the amounts taken are sustainable and do not interfere with existing groundwater users. A water taking is sustainable if the amount taken does not exceed the amount of water that is naturally recharged. Not maintaining this equilibrium and continuously drawing down an aquifer from year to year is referred to as “mining” the aquifer. Although the Ministry does not allow mining, some of its practices are putting a strain on groundwater resources and could eventually lead to the mining of aquifers. The consequence of such mining could be a drop in groundwater levels, which may result in the drying up of wells and streams. This could affect sensitive ecosystems that rely on groundwater, in addition to leading to a non-sustainable groundwater supply.

We noted two examples where major aquifers have had declining water levels over a number of years. In one case, the groundwater levels have dropped 32 metres over a 20-year period, while in the other case, the groundwater levels have dropped 40 metres over a 40-year period and continue to decline on an annual basis. Even though groundwater levels have continued to drop, the Ministry renewed permits to take water from one of the aquifers and increased the allowable takings, although the Ministry could not determine the impact of the increases on the sustainability of the aquifer. Continuing this practice could result in damage to the habitats of aquatic-based life, degradation of sensitive wetlands, reduction in the capacity of the water to dilute contaminants, and mobilization of contaminants caused by changes in the directions of groundwater flow.

In addition, the Ministry has not taken the responsibility to develop a sustainability strategy for these two aquifers. Rather, it has delegated the responsibility to users, requiring that, when the current permits to take water from these two aquifers expire, the water takers assess how their takings have affected the groundwater and develop a strategy for sustainable groundwater use in these areas. Nevertheless, the Ministry is directly responsible for all groundwater takings in Ontario, and the practice of relying on users to ensure the sustainable use of groundwater in an entire aquifer warrants reconsideration.

### Recommendation

**To help ensure the sustainable use of groundwater resources, the Ministry should:**

- **enhance its assessment and evaluation process for applications for permits to take water by:**
    - **ensuring that it receives and retains the required hydrogeologic studies for new permit applications;**
    - **evaluating the relevance of dated hydrogeologic studies for permit renewals; and**
    - **assessing the cumulative impact on the ecosystem that could result from the taking of groundwater by multiple users;**
- **monitor the actual amounts of water taken by permit holders to verify that permit holders are not extracting more water than they are entitled to;**
- **follow up on expired permits to take water to determine whether former permit holders are still extracting groundwater; and**
- **establish a province-wide framework for monitoring water takings so that continuously drawing down, or "mining," of aquifers is prevented.**

#### *Ministry Response*

***The government has taken concrete steps that will enhance its assessment and evaluation process for applications for permits to take water. One fundamental component is ensuring that the Ministry receives and retains the required hydrogeologic studies for new permit applications and also moves towards a watershed approach to assessing the cumulative impact on the***

***ecosystem that could result from the taking of groundwater by multiple users. As part of the government's overall framework for source protection, the Ministry posted amendments to the Water Taking and Transfer Regulation (285/99) of the*** **Ontario Water Resources Act** ***and improvements to the Permit to Take Water Program on the Environmental Bill of Rights Registry on June 18, 2004 for public comment for 60 days, until August 17, 2004. The proposed regulation will ensure that ministry directors follow stringent safeguards before issuing permits to take water. This proposed tough new regulation supports Justice O'Connor's recommendations in the*** **Report of the Walkerton Inquiry.**

***The proposed amendments will clearly spell out the factors that the Ministry will consider in assessing water-taking applications, including consideration of the impact of proposed water takings on the ecosystem, water availability, proposed uses of the water, water conservation, mandatory reporting of water takings, and enhanced notification to municipalities and conservation authorities. The proposed regulation also provides a means for assessing high-use watersheds and for outlining conditions under which proposals for new or expanding uses that remove water from a watershed will not be permitted. In addition, the Ministry will be replacing the*** **Permit to Take Water Program, Guidelines and Procedures Manual** ***with a new manual that will reflect changes to the regulation. A draft of the new manual will be posted on the Environmental Bill of Rights Registry for consultation, before the regulation is finalized.***

***While many permit holders currently monitor their water takings and report them at the expiry of their permit, the draft amendments to the regulation also propose to require annual reporting of water takings to the Ministry, starting with municipal water supplies, major industrial dischargers, and water takings that remove water from the watershed.***

***As part of the Ministry's efforts to improve overall inspections, the Ministry has adopted a risk-based approach for inspections. A project is currently underway to apply this approach to permits-to-take-water inspections that will include an assessment of expired permits.***

***To support mandatory reporting of water takings by permit holders, the Ministry funded a pilot project with Conservation Ontario to assess issues involved in establishing a consistent monitoring and reporting system. The findings from this pilot will guide the Ministry as it considers how to develop a monitoring and reporting system that could be applied across the province.***

## ENFORCING COMPLIANCE WITH LEGISLATION

The *Environmental Protection Act* and the *Ontario Water Resources Act* outline the inspection and enforcement powers of ministry environmental officers. Inspection and enforcement include applying measures to bring about compliance with the legislation and are focused directly on the control, prevention, reduction, and elimination of pollution sources. Specific inspection activities include responding to spills, following up on complaints, and proactively inspecting potential areas of risk. Depending on the severity of an incident, environmental officers can seek an offender's compliance by either soliciting the offender's voluntary co-operation or inducing corrective action using the enforcement provisions of the legislation. When the offender does not comply, the environmental officer prepares a referral report. This report may initiate further investigation and enforcement action, including prosecution.

## Inspections

Environmental officers are assigned to ministry district offices, where they carry out inspections of facilities that either the public has complained about or the Ministry has proactively selected. In addition, since September 2000 the Ministry has used an "Environmental SWAT Team" to increase its inspection coverage. The team focuses on proactive inspections in priority areas where compliance by industries or companies is a major concern. During the 2003/04 fiscal year, the Ministry performed 4,700 district and SWAT inspections.

District offices are required to allocate a minimum of 20% of environmental officers' available time to proactive inspections. Districts are to set priorities for inspections based on three factors: known or anticipated human health impacts; environmental impairments; and noncompliance with legislation. However, we noted that none of the three district offices maintained documentation to show that selection criteria had been applied to arrive at the final list of planned inspections.

We reviewed the inspection process at three district offices and found that non-compliance issues of an administrative nature were noted in half the inspections. However, the inspectors judged that known or anticipated impacts to human health or the environment existed in only 5% of these inspections. In contrast, we found that SWAT inspectors, using a risk-based approach to select facilities for inspection, found non-compliance in 95% of the facilities inspected and threats to the environment or human health that needed to be corrected in almost 25% of these facilities.

Risk assessment should be an important component in targeting facilities for inspections. We were informed that inspection targets were developed using professional judgment and knowledge of potential polluters, but we found cases where risk assessment was not used as part of this process. For example, at one district office, inspections were carried out in 2002/03 on all sewage plants because of a potential for groundwater contamination. All the plants were re-inspected in 2003/04, even though ministry policy requires that such inspections be carried out only once every four years and despite the fact that some plants had only minor compliance failures—none of which affected the environment.

Since 2000, the Ministry has attempted to use a number of risk-based models to select candidates for inspection. Districts carried out a pilot test for the latest model used. We reviewed the 25 inspections performed by one district office as part of the pilot test and noted that environmental officers had recorded that there were no indications of known or anticipated human health or environmental impacts for any of the facilities inspected, which may indicate that the pilot model is not effectively identifying high-risk facilities.

**Recommendation**

**To more effectively identify incidents of non-compliance with environmental legislation and threats to human health and the environment, the Ministry should:**

- **review the results of its proactive inspections to determine why they have not been as effective as inspections conducted by the "Environmental SWAT Team" in identifying threats to the environment and human health; and**
- **develop and implement a more effective risk-based model for its proactive inspection program to target areas that have the most potential for detrimental environmental impact if not corrected.**

***Ministry Response***

***As part of the Ministry's efforts to improve overall inspections, the Ministry conducted a District Risk Assessment Pilot in 2003. The results of the pilot were assessed to determine the best approach for implementing a risk-based approach for proactive district inspections. Using the lessons learned from this pilot, the Ministry's Operations Division has introduced a risk-based district inspection framework with a community-based approach that will identify threats to the environment and human health.***

***The risk-based district inspection framework for inspections uses three risk categories to determine known health/environmental risks in order to prioritize inspections, and these categories are supplemented with best professional judgment.***

***Inspection locations are determined through the review and analysis of incident reporting information and then categorized according to their risk and reviewed further to determine whether a single-medium, multimedia, or site-wide inspection is warranted. The framework will be reviewed after this fiscal year to identify opportunities for a more robust risk ranking of facilities. The Ministry also plans to establish a database that will provide diagnostic capabilities to further enhance the risk framework.***

## Investigations and Prosecutions

When inspections do not result in compliance, a referral report is prepared and sent to the Ministry's Investigations and Enforcement Branch. Each report is reviewed by a branch supervisor to determine whether an investigation is warranted and, if it is, the case is assigned to an investigator. An investigation is then conducted to determine whether reasonable and probable grounds exist for laying charges. More than 1,100 investigations were initiated during the 2002/03 fiscal year, and 900 cases were referred to the Ministry of the Attorney General for prosecution.

We reviewed the investigation and enforcement process and noted the following:

- In a number of cases, either files were not promptly assigned for investigation or investigations were not completed on a timely basis. In some cases, the delay in assigning files for investigation occurred because the information needed before investigations could proceed was weak or missing. Because legislative limitations require that legal proceedings commence within two years of the offence, files that were delayed beyond this time were closed. We could not determine the extent of this problem, since the Ministry's information system did not have complete information on cases that were not assigned for investigation and on cases that were closed due to statute limitations.
- We were informed that, since the Walkerton Inquiry, some inspection staff have referred all their cases to the Branch for investigation. We noted cases where inspection staff referred violators to the Branch before the violators' compliance period to take corrective action had expired. Such referrals result in an unnecessary increase in the Branch's workload.
- A ministry agency operates 450 facilities consisting of 31% of Ontario's water treatment facilities and 43% of Ontario's wastewater facilities. The agency operates these facilities for various municipalities. The agency is required by legislation to provide water treatment and wastewater services for the protection of human health and the environment. We noted that this agency had incurred a number of compliance violations, including improperly operating and maintaining facilities resulting in discharges that could impair water quality; failing to properly take and analyze water samples and report adverse-water-quality incidents; and failing to report discharges of sewage into a nearby creek. We were informed that in some of these cases the problems could be ongoing, as they were attributable to aging municipal facilities.

**Recommendation**

**To help ensure the timely disposition of cases of serious environmental violations, the Ministry should:**

- **review and, where necessary, adjust current procedures for sending referral reports to the Investigations and Enforcement Branch;**
- **take the necessary steps to lay charges and start proceedings within the two-year time frame required by legislation; and**
- **review the operations of its agency to determine the reasons for incidents of non-compliance and work with the agency to correct the situation.**

***Ministry Response***

***The Ministry acknowledges the need to ensure the timely disposition of cases of serious environmental incidents. The Ministry's Investigations and Enforcement Branch will be undertaking a review of the current incident referral procedures, and this will be completed by January 2005.***

***The Investigations and Enforcement Branch has also initiated a review of operational procedures to expedite the laying of charges for serious environmental offences, and this will be completed by January 2005.***

***The Ministry continues to work with the agency to ensure that it has the tools it needs to comply with environmental legislation and that there are clear and effective lines of communication to reinforce the impact and timing of regulatory changes. The agency's overall goal is to have compliant operations. The agency's 2003–05 Business Plan includes immediate and long-term strategies for ensuring compliant operations within a changing regulatory environment. The Ministry does acknowledge, however, that actions must be taken when there are instances of non-compliance.***

## MEASURING AND REPORTING ON PROGRAM EFFECTIVENESS

To demonstrate that its program and policies for groundwater protection are effective in accomplishing its mandate of restoring, protecting, and enhancing the environment to ensure public health, environmental quality, and economic vitality, the Ministry needs to establish a framework for tracking the results of its initiatives with respect to improving the quality of groundwater in Ontario, ensuring the sustainability of the resource, and taking corrective action when objectives are not met. To enable such tracking, the Ministry needs to establish desired outcomes, identify performance measures, and have technically sound data. Only with these three components can the Ministry determine whether its policies and management practices are succeeding in achieving or failing to achieve the protection and long-term sustainability goals for groundwater resources.

At the completion of our audit in March 2004, the Ministry did not have desired outcomes or performance measures in place for the groundwater program. The only performance measures being reported were not associated with groundwater—they related to the quality of drinking water, tracking quarterly reporting from municipalities as well as the percentage of reported incidents of adverse water quality.

To properly develop meaningful performance measures, there needs to be an understanding of what is being measured. Although the Ministry has gathered site-specific information from various areas of the province, it still lacks a specific understanding of groundwater resources in Ontario as a whole. This specific, province-wide understanding should include the dynamics of how groundwater is recharged, the impacts of human-made impervious surfaces on recharge areas, the quantity of water that can be reasonably withdrawn from groundwater sources, and what actions need to be taken to protect wellheads from pollution.

The Ministry acknowledges the need to develop groundwater outcomes and performance measures. The information it currently has is not sufficient to enable it to properly measure the extent to which groundwater protection objectives are being achieved. Therefore, the Ministry has started to develop new activity-based measures and refine existing ones for which it can begin collecting data on baseline conditions and then track changes.

The Provincial Groundwater Monitoring Network is one of the initiatives where the Ministry is following the above process. Specifically, the Ministry is collecting data to develop baseline information on groundwater quantity and quality to enable it to track the improvement or deterioration of groundwater resources over time.

However, any data from the Ministry's previous water-monitoring programs have not been included in the new system. Whether legacy data available from old systems or reports will be included will not be known until after the Ministry reviews the information to determine if it would be useful in the new system. One potential problem is that the old legacy data systems and the new system are not consistent in format and in the type of information kept, nor are they compatible, so data-sharing could be cumbersome and time-consuming. Without historical information, it will be difficult to determine groundwater trends and the overall effectiveness of the groundwater program.

**Recommendation**

**To help promote accountability, the Ministry should identify desired outcomes for its groundwater program and develop performance measures that would enable it to assess the extent to which program outcomes are being met and be more effective in ensuring the restoration, protection, and sustainability of groundwater resources.**

***Ministry Response***

***The Ministry recognizes the need for performance measures related to groundwater. The Ministry will be developing program-level measures, including those associated with groundwater resources, by the end of the 2004/05 fiscal year.***

MINISTRY OF FINANCE

# 3.06–Land Transfer Tax Program

## BACKGROUND

The *Land Transfer Tax Act* requires that purchasers pay a tax when an interest in ownership of land is transferred in Ontario. The tax is based on the taxable "value of consideration"—usually the amount paid by the purchaser and declared in a Land Transfer Tax Affidavit prepared by the purchaser's lawyer. Land transfer tax is generally not payable when a property is transferred as a gift or an inheritance or is transferred to a Crown Corporation.

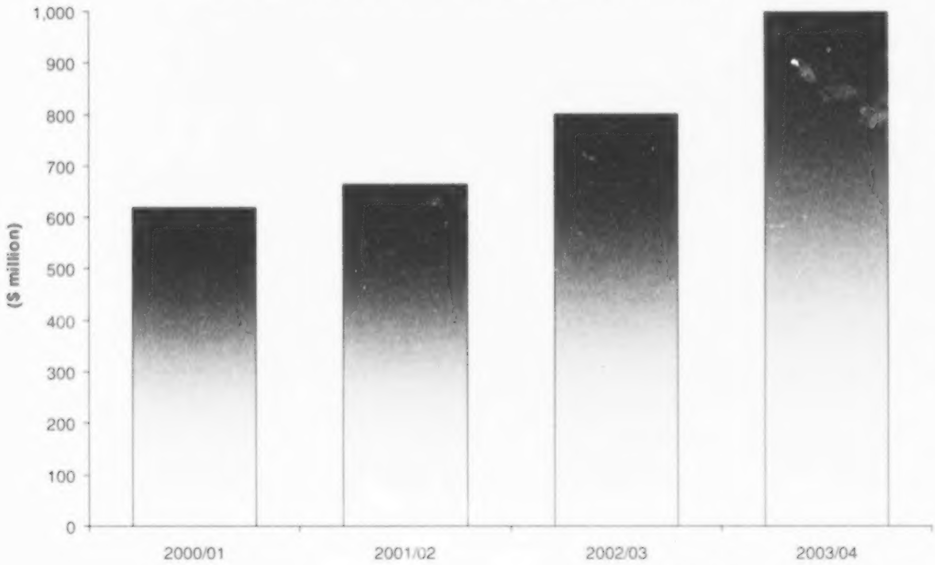
The progressive land transfer tax rates are as follows:

| | |
|---|---|
| On amounts up to $55,000 | 0.5% |
| On amounts over $55,000 up to $250,000 | 1.0% |
| On amounts exceeding $250,000 | 1.5% |
| On amounts exceeding $400,000 for a single-family residence only | 2.0% |

Currently, up to the first $2,000 in land transfer tax may be waived or refunded for first-time homebuyers of newly constructed homes who meet prescribed conditions.

For the 2003/04 fiscal year, approximately 470,000 transfers in interest in land were reported to the Municipal Property Assessment Corporation for property tax assessment purposes. Also for the 2003/04 fiscal year, the total land transfer tax collected was approximately $1 billion. Over the four-year period from 2000/01 to 2003/04, total land transfer taxes collected have increased substantially, as shown in the following bar graph.

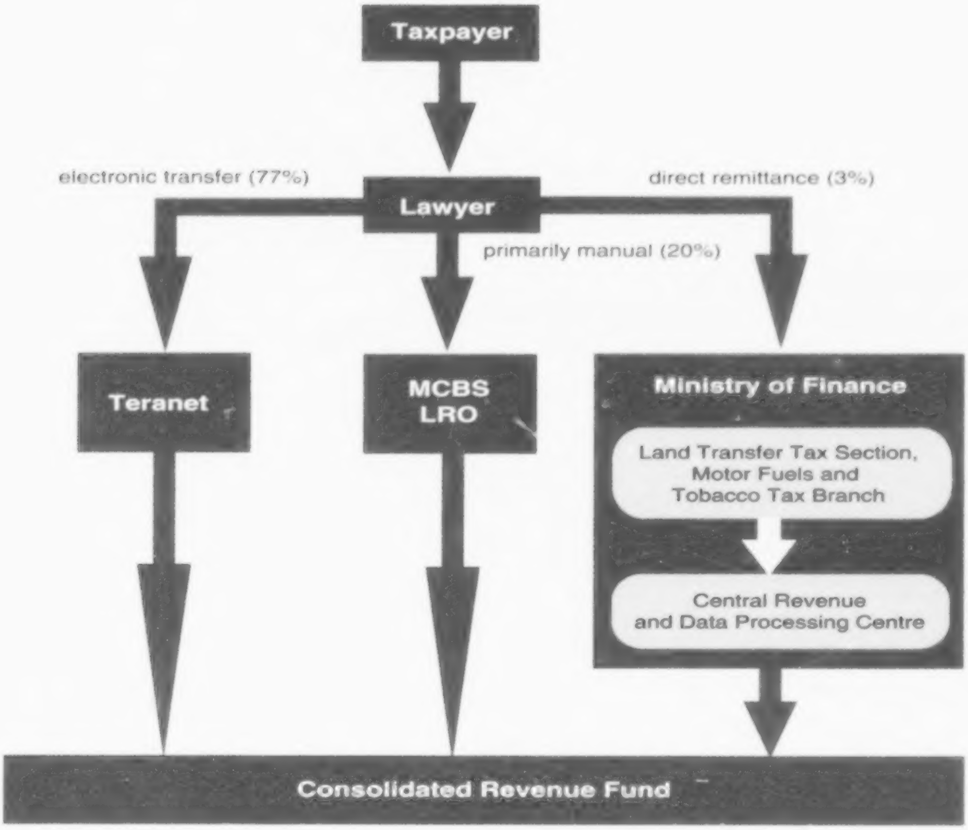
**Total Land Transfer Taxes Collected, 2000/01–2003/04**



*Source of data: Ministry of Finance*

The following flow chart shows the roles of each participant in the tax collection process. Note that Teranet in the flow chart refers to a private-sector company that has automated Ontario's land registry system and collects and transfers tax funds electronically; and the Ministry of Consumer and Business Services (MCBS in the flow chart) operates 54 land registry offices (LROs in the flow chart). Although 21 of the 54 LROs offered electronic services through Teranet at the time of our audit, at LROs taxes are primarily collected manually, with cheques deposited to the Consolidated Revenue Fund.

**Flow of Land Transfer Tax from Taxpayer to Ministry, 2003/04**



*Prepared by the Office of the Provincial Auditor*

The Land Transfer Tax (LTT) Section of the Ministry's Motor Fuels and Tobacco Tax (MFTT) Branch has overall responsibility for the administration of the Land Transfer Tax Program. This responsibility includes reviewing and auditing selected land transfer tax transactions, including those processed by Teranet and land registry offices, as well as verifying taxpayer eligibility for land transfer tax refunds or exemptions. At the conclusion of our audit in early 2004, a total of 29 full-time-equivalent staff positions were assigned to the LTT Section, of which five positions were vacant.

The LTT Section is supported in its administration of the program by the Ministry's Collection and Compliance and Tax Appeals branches and the Central Revenue and Data Processing Centre.

## AUDIT OBJECTIVE AND SCOPE

The objective of our audit was to assess whether the Ministry had appropriate policies and procedures in place to ensure that the correct amounts of land transfer tax were being collected, refunded, and exempted in accordance with statutory requirements.

Our audit work was primarily conducted in the period from October 2003 to March 2004 and focused on the 2002/03 and 2003/04 fiscal years. Our audit was conducted in accordance with professional standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances. The criteria used to conclude on our audit objective were discussed with and agreed to by senior ministry management.

The scope of our audit included work at the following organizations and locations that administer land transfer tax transactions or program-related information: the MFTT Branch of the Ministry; three of the Ministry of Consumer and Business Services' (MCBS's) 54 LROs (which collectively received half of all land transfer tax revenue collected by LROs); the MCBS; the Shared Services Bureau; and the Municipal Property Assessment Corporation. In addition, we discussed various aspects of the Teranet system with the Chair of the Joint Committee for Electronic Registration of the Law Society of Upper Canada and the Ontario Bar Association.

The Ministry's Internal Audit Services Branch conducted an audit of Teranet's Remote Land Transfer Tax Administration and issued a report dated June 2003. We reviewed both this audit report—with the supporting working papers—and four MCBS internal audit reports on LROs that we received in December 2003, as well as one on Teranet that we received in March 2004. We relied on various aspects of the work done, as noted later in this report.

## OVERALL AUDIT CONCLUSIONS

Given that 97% of land transfer tax is not collected directly by the Ministry but rather by Teranet—a private-sector company—and by land registry offices (LROs) operated by another ministry, the Ministry of Finance must rely heavily on others to ensure it collects all land transfer tax owing. Such reliance is warranted only if the Ministry has adequate oversight and audit processes in place, particularly in the case of Teranet. We concluded that these processes required significant strengthening in several key areas, as follows:

- Although the Ministry was in the process of obtaining access to and making use of Teranet-based individual property registration data, at the conclusion of our audit fieldwork the Ministry had not yet established necessary procedures to effectively oversee the collection and submission of land transfer taxes by Teranet. Doing so is especially important given that the taxes collected by Teranet have increased over the past four years from $13.5 million (2.2% of total taxes) in the 2000/01 fiscal year to $781 million (77% of total taxes) in the 2003/04 fiscal year. Internal auditors from both the Ministry of Finance and the Ministry of Consumer and Business Services also expressed the opinion that there could be a financial risk unless full access to Teranet data was obtained.

- LROs were not required to receive all the information they would need to ensure that the appropriate amount of tax, based on the taxable value of consideration, was remitted, regardless of whether the tax was collected through Teranet or directly by the LRO.
- The Ministry depends on LROs to identify high-risk transactions for possible follow-up and has provided LROs with a list of risk factors that would trigger this identification. However, based on our reviews and discussions, most of the transactions that exhibited one or more of these risk factors had not been referred to the Ministry for potential review and audit follow-up.
- It is essential for the Ministry to promote voluntary compliance through conducting sufficient, risk-based audits that serve notice to taxpayers that the information they report is subject to verification. However, we found that the focus of audit activity has increasingly been on lower-risk transactions, and this is likely one of the reasons why the dollar value of audit assessments has declined by 75% over the past four years.

We acknowledge that with just 24 staff, the ability of the Land Transfer Tax Section to undertake significantly enhanced oversight and audit procedures—especially with respect to more complex commercial land transfer transactions—may be limited by both the number and the mix of the staff currently involved. With this in mind, we recommended that the Ministry conduct a cost/benefit analysis to assess the feasibility of hiring additional staff with the qualifications to effectively identify and audit a larger number of high-risk land transfer transactions.

### Overall Ministry Response

***We appreciate the Provincial Auditor's various observations and suggestions on the administration of the Land Transfer Tax (LTT) Program. Many of these issues were recognized by the Ministry in its move to an electronic LTT administration, and our improved access to Teranet data will provide the Ministry with an enhanced capacity for program oversight and audit selection, within a more efficient system that is also more convenient for the taxpayer.***

# DETAILED AUDIT OBSERVATIONS

## THE COLLECTION PROCESS

Land transfer taxes are received from Teranet and land registry offices (LROs), as well as being directly remitted to the Ministry in a small number of cases. In the past four years, the proportion of land transfer taxes received from these three parties, respectively, has changed significantly, as shown in the following table.

**Sources of Land Transfer Tax Revenues Received, 2000/01–2003/04**

| Source | % of Total Revenue | | | |
|---|---|---|---|---|
| | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
| Teranet | 2.2 | 11.6 | 55.2 | 76.7 |
| LROs | 94.4 | 84.8 | 42.2 | 19.6 |
| Ministry | 3.4 | 3.6 | 2.6 | 3.7 |

*Source of data: Ministry of Finance*

Land transfer tax is usually paid at the time that a land transfer is registered. The registration and tax payment process follows option A, B, or C.

*Option A*

A lawyer with a Teranet account electronically registers the land transfer with Teranet and remits the required tax by electronic funds transfer to a Teranet trust account, which is to transfer the funds within 24 hours to the Consolidated Revenue Fund to the credit of the Ministry of Consumer and Business Services (MCBS). The lawyer also provides Teranet with an electronic version of the Land Transfer Tax Affidavit (LTT Affidavit), which is printed out at an LRO. LRO staff are to review all aspects of the registration and certify that the information provided meets land registration requirements.

*Option B*

A lawyer without a Teranet account goes to an LRO, where the land transfer is either electronically registered at a Teranet terminal in the LRO or—if there is no terminal—manually registered. In either case, the lawyer submits a paper copy of the LTT Affidavit and a cheque in payment of the land transfer tax. LRO staff daily deposit cheques received into the Consolidated Revenue Fund to the credit of the MCBS. LRO staff are to review all aspects of the registration and certify that the information provided meets land registration requirements.

*Option C*

A lawyer remits the tax, along with supporting documentation (including the LTT Affidavit), directly to the Ministry's Land Transfer Tax Section (LTT Section).

Under options A and B, LRO staff send the LTT Affidavits that they receive and process to the Municipal Property Assessment Corporation (MPAC) for property assessment purposes. In cases where the value of consideration in the LTT Affidavit is greater than a predetermined threshold amount or where no taxes are paid, the MPAC forwards the paper copy of the LTT Affidavit to the LTT Section for review and possible follow-up. Under option C, the LTT Affidavit is submitted directly to the LTT Section, where staff review and may follow up on it and other supporting documentation.

The movement of land transfer taxes is recorded and monitored as follows:

- The MCBS provides the Shared Services Bureau (SSB), which provides business support services to ministries and agencies across the Ontario Public Service, with a weekly summary of revenue reported as collected by Teranet, while LROs apprise the SSB of the revenues they have collected.
- The SSB performs a weekly reconciliation of land transfer tax deposits to the land transfer tax receipts reported by Teranet and the LROs.
- Journal entries to record the revenue are provided to the Ministry of Finance weekly.

## SUPPORT FOR DECLARED VALUE OF CONSIDERATION AND EXEMPTIONS

The Ministry entered into a revised Memorandum of Understanding (MOU) regarding the collection of land transfer taxes by LROs with the MCBS in December 2000. The MOU defines the respective roles and responsibilities of MCBS staff—including those in its LROs—as well as of the staff of the Ministry's Land Transfer Tax Section. According to the MOU, LRO personnel are expected to, among other things:

- collect land transfer tax at the appropriate tax rate based on the taxable value of consideration; and
- refer to the Ministry those LTT Affidavits that the Land Registrar in each LRO believes the Ministry should review or audit.

Ensuring that these expectations are met is especially important considering that the vast majority of LTT Affidavits are not forwarded to the Ministry (because the value of consideration does not exceed the predetermined threshold amount) and therefore are unlikely ever to be reviewed or audited.

We noted that compliance with both of the expectations was problematic.

## Collecting Land Transfer Tax Based on Value of Consideration

With respect to the first expectation, we found that LRO staff were unable to definitively determine the true taxable value of consideration because supporting documents—including the agreement of purchase and sale and the statement of adjustments—are not required to be submitted when land transfer transactions are registered at Teranet and the LROs. Instead, LRO staff collect land transfer tax based on the declared value of consideration stated in the LTT Affidavit and the transfer or deed of land.

Certain events can cause the LTT Affidavit's declared value to differ from the true taxable value. For example, a person may purchase a new home and sign a contract for the base purchase price at a declared value of $250,000. Later, the person may choose upgrades valued at, for example, $25,000. The increased total—and taxable—value of $275,000 is reflected in the purchase and sale agreement and a statement of adjustments, but the LTT Affidavit often does not get adjusted. One way to help ensure that the LTT Affidavit includes the value of taxable purchase price adjustments might be by adding a separate space on the form to record this information.

LRO staff told us that they currently do not obtain and review the supporting documents that would enable them to determine whether declared value differs from taxable value and that they would not be inclined to obtain the documents in the future.

In contrast, when land transfer tax payments are remitted directly to the Ministry's MFTT Branch, required documentation includes the agreement of purchase and sale and the statement of adjustments. We found in reviewing a small sample of files that the Ministry's review of agreements of purchase and sale and statements of adjustments resulted in the identification of additional tax owing for over 80% of the files. Although the taxes owing for three-quarters of these files were minimal and the Ministry did not request payment, the Ministry did request the payment of approximately $10,000 in additional taxes identified as owing in the remaining one-quarter of the files.

It is important to note that the Ministry is able to assess whether additional taxes are owing in the above manner only when it receives the necessary documentation directly from the taxpayer or his/her lawyer—which it does for only about 3% of land transfers. The Ministry cannot routinely assess whether additional taxes are owing for the vast majority of land transfers that are processed and for which the applicable land transfer taxes are collected through LROs and Teranet. Although additional taxes owing on these transfers, if any, may be small for many of the individual cases, it is possible that the Ministry could be foregoing, on a cumulative basis, more substantial LTT revenues because the declared value of consideration in the LTT Affidavit is not checked against supporting documentation, such as agreements of purchase and sale and statements of adjustments, especially for higher-risk and large-dollar-value transactions.

Purchasers and their lawyers may also be hindered in fulfilling their responsibility of declaring the true taxable value of consideration because educational materials they receive from the Ministry (described in more detail under "Training and Informational Materials") do not provide specific guidance and examples on how to do so. Among such materials, even the *Guide for Real Estate Practitioners*, which was specifically developed to explain how to properly complete LTT Affidavits, does not include any such examples.

## Referring Matters to the Ministry

With respect to the responsibility of LROs to identify those LTT Affidavits warranting review and possible audit, in the 2002/03 fiscal year the Ministry provided LRO staff with a flagging list containing 22 risk factors to assist them in referring LTT Affidavits to the Ministry for further review and possible audit. We understand that any LTT Affidavit containing one or more of the 22 risk factors is to be forwarded to the Ministry. For example, an LTT Affidavit in which the purchaser claims tax exemptions should be flagged and forwarded. However, we found through discussions with LRO and ministry personnel that very few items were flagged and referred to the Ministry. For example:

- At two of the LROs we visited, staff did not use any of the 22 risk factors to flag LTT Affidavits.
- At the other LRO we visited, staff referred to the Ministry LTT Affidavits flagged for only five risk factors that they had selected from the list of 22 factors.

We found further indications that the Ministry was not receiving LTT Affidavits with identified risk factors in the working papers from Ministry of Finance internal audit's review of Teranet transactions from August 2002. One of the risk factors from the flagging list is a purchaser's claim for tax exemptions. However, there was no evidence that any of the following cases involving such claims had been referred to the Ministry for review or audit:

- In two of 11 cases, purchasers that claimed to be Crown Corporations and eligible for tax exemption on that basis were, in fact, not Crown Corporations.
- In 11 of 23 cases, purchasers claimed tax exemptions at LROs for having made direct payments to the Ministry, but there was no evidence for such payments ever having been made.

We were informed after the conclusion of our fieldwork in March 2004 that the Ministry determined that no tax was owing on any of these transactions.

**Recommendation**

To help ensure that the value of consideration used to determine the amount of land transfer tax payable includes all aspects of taxable consideration and that Land Transfer Tax Affidavits (LTT Affidavits) and claims for exemptions that warrant further follow-up are referred to the Ministry, the Ministry should:

- provide in its educational materials—including the *Guide for Real Estate Practitioners*—a comprehensive list of the items that are to be included in the determination of taxable value of consideration;
- consider requiring that land registry offices (LROs) obtain, especially for higher-valued properties, additional documentation—such as agreements of purchase and sale and statements of adjustments—in order to substantiate the taxable value of consideration;
- consider changing the LTT Affidavit form to clearly request the inclusion of taxable purchase price adjustments in the determination of total taxable value of consideration; and
- work with LRO staff to ensure they are aware of the need to flag and submit to the Ministry those LTT Affidavits that contain any of the factors identified by the Ministry as high risk.

***Ministry Response***

*The Ministry agrees with the Provincial Auditor that there are few situations where the gross sale price is not taxable. Therefore, the Ministry agrees that further clarification would be helpful and will provide further educational materials for more specific guidance in respect to common errors in the reporting of taxable value of consideration.*

*In the remote on-line electronic registration environment, it would be logistically impossible to match hundreds of thousands of electronic transactions with additional paper documents. Therefore, it would be more cost effective to place greater emphasis on taxpayer education and post-audit selection.*

*The Ministry will revise the instructions on the LTT Affidavit to more clearly define taxable value of consideration and will review the LTT Affidavit to determine whether improvement can be made.*

*In the light of the additional electronic data and with the automated audit selection capabilities that are now available to the Ministry of Finance, the flagging requirements in the LROs are changing. Staff at the Ministry of Consumer and Business Services and the Ministry of Finance will work together to revise processes and manual interventions that would be needed in the electronic environment.*

## Training and Informational Materials

To facilitate LROs in collecting the correct amount of land transfer tax, both the current Memorandum of Understanding with the MCBS and the previous one require that ministry staff periodically visit LROs to provide them with staff training as well as informational guides and bulletins, including updates. In our last audit, in 1998, we identified two concerns in this area:

- Ministry staff had not visited any LROs or otherwise provided any training on land transfer tax issues for a number of years.
- The land transfer tax user manuals (LTT user manuals) and information guides and bulletins available to LRO staff were often incomplete and had not been updated in years.

As a result of these concerns, the Ministry undertook several initiatives from 2000 to 2002, including the following:

- The Ministry visited and provided training to staff at all 54 LROs and provided them with LTT user manuals.
- The Ministry developed a *Guide for Real Estate Practitioners* to facilitate the proper completion of LTT Affidavits.

During our interviews, LRO staff all expressed satisfaction with both the ministry training provided and the user manuals developed. We understand that the Ministry plans to revisit all LROs over a three-year cycle and provide updated training and materials as needed. Before the Ministry conducts these visits, we urge the Ministry to identify those areas where additional guidance may be required, such as in the identification and forwarding of high-risk LTT Affidavits and in the determination of taxable value.

## *ENFORCEMENT ACTIVITIES*

## Audit Coverage

The objectives of the Ministry's enforcement activities are twofold: to assess whether additional taxes are owing for selected transactions; and to promote broad-based voluntary compliance with legislation by serving notice to taxpayers that the information they report may be followed up for completeness and accuracy.

The LTT Section conducts two types of enforcement activities: in cases of taxes directly remitted to the Ministry, mandatory reviews of all documentation submitted are done; in all other cases, discretionary audits are performed on transactions selected primarily from LTT Affidavits forwarded from the MPAC, LRO referrals, and other targeted initiatives.

In response to a recommendation made in our 1998 audit that the Ministry substantially increase the number of audits, the Ministry indicated it would allocate additional resources to land transfer tax audit. We noted that, on average, the number of annual reviews and audits has remained relatively constant in the last five years, even though the number of land registrations increased by one-third since our last audit in 1998.

We also noted that while LTT revenues have tripled over the last nine years, recent tax assessments resulting from audits and reviews have, on average, shown a slight decrease, as outlined in the following table.

**LTT Revenue and Assessments, 1995/96–2003/04**

| | LTT Revenue ($ million) | Tax Assessments ($ million) |
|---|---|---|
| 1995/96 | 335 | 3.8 |
| 1996/97 | 444 | 6.6 |
| 1997/98 | 544 | 8.5 |
| 1998/99 | 470 | 3.1 |
| 1999/2000 | 565 | 12.5 |
| 2000/01 | 642 | 10.9 |
| 2001/02 | 665 | 5.0 |
| 2002/03 | 814 | 3.8 |
| 2003/04 | 1 billion | 3.5 |

*Source of data: Ministry of Finance*

In addition, our review of available statistics for the 2001/02 and later fiscal years indicated that a disproportionate number of discretionary audits have been of first-time homebuyer refund claims. For example, in the 2002/03 fiscal year, 70% of all audits completed were for such claims—whereas audits selected because of, for example, potential issues regarding value of consideration, which can be higher risk and have potentially more lucrative results, were estimated to make up less than 12% of total audits completed. As for the results of the discretionary audits conducted in the 2002/03 fiscal year, we found the following:

- Thirty percent of the first-time homebuyer refund claim audits resulted in an assessment, where the average assessment was $1,570.
- In contrast, approximately 70% of the other audits resulted in an assessment, with the average assessment being approximately $9,700.

We therefore concluded that the Ministry's audit coverage was not sufficiently focused on the risks of non-compliance and on maximizing the recovery of unremitted taxes.

We understand that the Ministry had not been able to audit more of the larger and more complex transactions because it lacked the necessary senior and more experienced staff required to do so.

We acknowledge that with just 24 staff, the ability of the LTT Section to improve the extent and effectiveness of its audit coverage—especially with respect to more complex commercial land transfer transactions—may be limited. It might therefore be prudent for the Ministry to analyze the costs and benefits of hiring additional staff with the qualifications to effectively identify and audit more higher-risk land transfer transactions.

### Recommendation

**To help meet its objective of assessing whether additional taxes are owed as well as to promote broad-based voluntary compliance with legislation, the Ministry should use a more risk-based approach in selecting land transfer transactions for audit and establish reasonable audit coverage goals.**

**To improve audit effectiveness, the Ministry should assess the costs and benefits of hiring additional staff with the qualifications to identify and audit higher-risk land transfer transactions.**

#### *Ministry Response*

***Since the August 2003 agreement with Teranet to obtain electronic land registration and land transfer tax data, the Ministry has developed a system for enhanced data analysis to support improved audit selection processes. With the new data in an electronic format, the Ministry can now establish reasonable audit coverage goals and will use a more risk-based approach in selecting land transfer transactions for review.***

***The Ministry has developed a plan assessing the costs and benefits of hiring additional staff.***

## Audit Work Performed

In our *1998 Annual Report*, we noted that audit working-paper files often lacked documented audit programs and checklists. Including such material in files provides assurance that all necessary work has been undertaken. In this year's audit, we were pleased to find that standardized programs and checklists were completed in most cases and that there was evidence of supervisory review and approval of work completed.

## First-time Homebuyer Refunds and Exemptions

First-time homebuyers who meet certain criteria are eligible for tax refunds or exemptions that equal the amount of tax paid or owing, up to a maximum of $2,000. The Ministry's records for the 2002/03 fiscal year indicate that the vast majority of the almost 24,000 claims for tax refunds or exemption—totalling $38 million—were granted to first-time homebuyers of newly constructed homes. In approximately 95% of cases, the refund or exemption is granted to these buyers when they register the land transfer at an LRO or through Teranet.

To be eligible for the exemption, the purchaser must meet the following criteria:

- Neither the purchaser nor the purchaser's spouse or same-sex partner—during the time of being a spouse/partner—has ever before owned a home anywhere in the world.
- The purchaser has purchased a newly constructed home.
- The purchaser occupies the home as his or her principal residence no later than nine months after the date of the land transfer or bestowal of the deed or title.

We reviewed a number of audits done on first-time homebuyer refunds and found that the audits in many cases did not establish the eligibility of first-time homebuyers for the exemptions.

We also found that whenever an exemption is granted, a paper copy of the Land Transfer Tax Refund Affidavit is to be forwarded to the Ministry for entry into its Refund Affidavit Database. This database is the basis for selecting transactions for further review or audit.

If an exemption or refund for any reason fails to get entered into the database, the associated transaction is in many cases not subject to audit selection or review and is not included in the Ministry's statistical information on the total number and amounts of refunds and exemptions claimed. Concerns about the extent to which database information was incomplete prompted program management to request that internal audit investigate the issue. Our review of Ministry of Finance internal audit files found that, for the month of August 2002, 402 (or 22%) of the 1,858 exemptions claimed through Teranet could not be located in the database. In February 2004, the Ministry indicated that 231 of these 402 exemptions were still not entered in the database. Once the Ministry is successful in obtaining access to Teranet-based individual property registration data, the identification of such exceptions can be done relatively cost effectively.

**Recommendation**

**In order to ensure that first-time homebuyer refunds and exemptions are provided only to eligible purchasers and that all refund and exemption transactions are recorded for possible audit selection or further review, the Ministry should ensure that:**

- **audits of first-time homebuyer claims establish the eligibility of the homebuyer for receiving a refund/exemption; and**
- **all information on refunds and exemptions claimed is entered into the Refund Affidavit Database.**

***Ministry Response***

***Audit file documentation standards will be enhanced to ensure that where the eligibility criteria are verified the results are clearly recorded.***

***The Ministry has manual processes currently in place to pursue missing affidavits from taxpayers or their solicitors and to capture all information onto a database. With improvements in data and technology, it will be possible to ensure by electronic means that all data is captured.***

## *AUDITS OF TERANET AND LAND REGISTRY OFFICES*

As noted previously, 97% of all land transfer tax revenue is collected either by Teranet (through electronic transfer) or by LROs (primarily manually).

With respect to the Teranet-based land transfer tax revenue, an agreement between the Ministry and Teranet effective August 1, 2003 includes the following provision:

> Teranet is subject to audit by each of the [Ministry of Finance] and the Provincial Auditor, on reasonable notice, for the purpose of auditing Teranet's systems, data and processes as they relate to the collection of taxes, verification, storage and use of land transfer tax/retail sales tax related data. Financial systems and processes as they relate to the collection, accounting for and remittance of taxes are included in the scope of such audits.

We noted that, at the time our fieldwork was completed, no audits had been performed as a result of this agreement.

The internal audit branches of both the Ministry of Finance and the Ministry of Consumer and Business Services (MCBS) conducted audit work at Teranet that predated the August 1, 2003 agreement. However, while this audit work could provide some assurance, it could not verify that the Ministry of Finance received all of the revenue it was entitled to because the auditors lacked full access to Teranet data, systems, and processes. In that regard, in March 2004, we received an MCBS internal audit report on Teranet dated November 2003. The conclusion and overall observations of this report included the following:

> Without direct access to the Teranet system, we concluded there were gaps in the financial accountability and the ministries (MCBS [and the Ministry of Finance]) could be at a financial risk. There is no independent verification by the [m]inistry staff to ensure that the output from Teranet is accurate. Therefore, we were unable to verify [that] the net amount of revenue flowing to the ministries was fairly stated. It is recommended that Internal Audit or an independent accountant perform an annual audit of the Teranet system. In addition, the three ministries (MCBS, [Ministry of Finance,] and the Shared Services Bureau) should mutually agree to designate one ministry to perform a reconciliation of reports received from Teranet to ensure the accuracy of the financial data processed.

With respect to revenue collected by LROs, an agreement between the Ministry and the MCBS states the following:

> MCBS will conduct periodic field audits on LROs to ensure compliance with established procedures. A representative sample of journal entries will also be examined to ensure that [land transfer tax] collected for those offices audited has been transferred to MFTT. Details of the results of MCBS LRO audits will be made available to [the Ministry of Finance's] Audit Services Branch on request. [The Ministry] will accept the audit findings of MCBS.

Our discussion with MCBS internal audit staff indicated that the frequency of audits of each LRO has been approximately once every 10 to 11 years. We also noted that, although MCBS internal audit completed and issued four LRO audit reports in the 2002/03 fiscal year, none of these were requested by or provided to the Ministry of Finance. In addition, we found in our review that the reports did not provide any specific assurance with respect to the completeness and accuracy of the land transfer tax collected by the LROs. In fact, one report suggested that the LRO needed to improve its procedures to meet its obligations under the Memorandum of Understanding with the Ministry.

### Recommendation

**To help ensure all land transfer tax revenue collected by Teranet and land registry offices (LROs) is transferred to the Ministry's Consolidated Revenue Fund, the Ministry should ensure that:**

- **an annual independent audit of the Teranet system is performed and any deficiencies or errors that relate to the submission and reporting of land transfer tax to the Ministry are identified and corrected on a timely basis; and**
- **the risk associated with auditing every LRO only once every 10 to 11 years is reconsidered and that the audits, when completed, are received and reviewed to determine whether they provide sufficient assurance that LROs have collected and transferred the correct amount of tax.**

### *Ministry Response*

***The Ministry recognized the need for oversight with respect to Teranet's involvement in the administration of the land transfer tax (LTT). Consequently an audit, which included a review of the collection, reconciliation, and reporting of LTT in Teranet, was undertaken and completed by Ministry of Finance internal audit in June 2003. The scope of the audit, at that time, was limited by the Ministry's lack of authority with respect to full access to Teranet data, systems, and processes.***

***Since the last audit in 2003, the Ministry has entered into an agreement with Teranet to permit an audit of Teranet's systems, data, and processes as they relate to the collection of taxes. Independent audits of the Teranet system will be performed on a regular basis. Any deficiencies disclosed would be addressed in a timely manner.***

***While every effort is made to have audit coverage for all registry offices in a timely fashion, audit resources and priorities have made it challenging to do so. Current audit planning for the offices is focused on high-risk areas based on a set of critical risk factors. Twelve LROs have been selected for audit in 2004/05.***

***The Ministry will work with the Real Property and Registration Branch at the Ministry of Consumer and Business Services to obtain comments and recommendations related to the collection of land transfer tax from the LRO audits.***

## MANAGEMENT INFORMATION

Sufficiently detailed and accurate information is required to manage and evaluate the effectiveness of the Land Transfer Tax Program. Examples of information that would be useful to facilitate management's administration and assessment of the program include:

- the total number of, and detailed information on, land transfers executed, divided into different categories—such as those involving developers, those involving commercial properties, those involving resale properties, those involving new homes, and so on;
- detailed information on the values of consideration of all land transfers executed, divided into different categories, such as those within certain dollar ranges; and
- the total number of, and detailed information on, land transfer registrations where first-time homebuyer tax refunds or exemptions were claimed.

At the time of our *1998 Annual Report*, 95% of all land transfer tax paid was collected—mostly manually—by LROs. In many cases it was impractical for the Ministry to collect and analyze the large amount of paperwork involved to obtain the information necessary for managing and evaluating the program. In fact, the only information it did receive was paper copies of LTT Affidavits that met certain criteria. Thus, effective management and evaluation of the program were much more difficult at that time.

At the time of our current audit, however, 75% of all land transfer tax revenues were collected through Teranet, and it is expected that this percentage will continue to increase over the next few years. As a result, a significant amount of information is maintained electronically at a centralized source.

As previously discussed, the Ministry can currently access Teranet's information only on *individual* property registrations. For some time, ministry management had been aware of the need for additional information of a *summary* nature to help it manage and evaluate the effectiveness of the program. As a result, in August 2003 the Ministry entered into an agreement to obtain such information from Teranet for a one-time programming fee of $75,000 and an ongoing annual fee of $31,000. As our audit ended in April 2004, Teranet was developing the necessary extracting software, and the Ministry was expecting to have summary information by fall 2004.

Summary information on the number, type, and value of transactions is essential for effective management oversight and, accordingly, we will follow up on the Ministry's access to this information and use of it in two years' time.

## ACCOUNTS RECEIVABLE

All land transfer tax accounts receivable that are outstanding for more than 45 days are referred to the Ministry's Collection and Compliance Branch. As of September 30, 2003, a total of 240 accounts representing $48 million of land transfer taxes that had been referred to this branch were still outstanding. The majority of these accounts had been outstanding for more than 90 days.

Of the $48 million in outstanding receivables, much of which was under objection or appeal, $27 million—relating primarily to the transfer of land to four airport authorities in the late 1990s—received order-in-council approval for payment deferral; $14.4 million was secured by instruments such as a letter of credit or a personal guarantee; and $6.2 million was covered by liens or writs registered on taxpayer property. This left a balance of only about $400,000 in outstanding receivables unprotected by security, liens, or writs. Due to the small amount subject to risk, we did not conduct a detailed audit review of this area.

## OBJECTIONS AND APPEALS

The *Land Transfer Tax Act* allows a person who objects to an assessment of taxes payable issued by the Motor Fuels and Tobacco Tax Branch to file an objection with the Tax Appeals Branch within 180 days of receiving a Notice of Assessment, Notice of Decision, or Statement of Disallowance. If the person is not satisfied with the subsequent decision of the Tax Appeals Branch, that person may appeal—within 90 days of receiving notice of the decision—to the Superior Court of Justice to have the decision overturned. The Ministry's Legal Services Branch handles appeal cases. The Tax Appeals Branch reported that, as of September 30, 2003, 53 taxpayer objections were under review. Also as of this date, 71 appeal cases were filed with the Superior Court of Justice.

From the taxpayer's perspective, timely resolution of objections and appeals is of the utmost importance. Management informed us that each officer was responsible for following up on and updating the objection files assigned to him or her. However, the Ministry has not set any time frames for follow-up actions and subsequent decisions on objections. In our review of a sample of objection files, we found that a long time elapsed between follow-up actions. In several instances, almost three years elapsed between follow-up phone calls, and there was no documentation to indicate that other follow-up actions had been taken during that time.

In addition, we found 37 appeal cases that had been filed with the court for more than five years and were not yet resolved. In reviewing a sample of appeal files, we found no evidence that the Tax Appeals Branch had followed up with the Legal Services Branch to determine the status of the appeals.

We also found that statistics that the Ministry prepared to demonstrate the effectiveness of land transfer tax assessments and provided to the Management Board of Cabinet were not a correct measure of the LTT Section's performance. The Ministry applied its effectiveness measure as follows: first it subtracted the number of objections that in the current year resulted in a changed assessment from the total number of new assessments issued in the current year; then it divided this number by the total number of new assessments issued that year. However, since most of the new assessments would not have been objected to or appealed—and certainly not settled—this assumption is clearly untenable. Rather, each objection/appeal needs to be tracked through the objection/appeal process to its final outcome (which the Ministry currently does not do), and outcomes need to be related back to the assessment statistics for the year in which the objection/appeal originated. The Ministry acknowledged that the statistics reported to the Management Board of Cabinet are not a true measure of effectiveness and advised us that it is in the process of revising the statistics that it will report.

### Recommendation

**To improve the timeliness of objection decisions, the Ministry should:**

- **develop a flagging system to identify files on which no recent action has been taken;**
- **follow up with the appropriate officers to determine the reasons for delays in taking action; and**
- **determine the actions required to expedite resolution of the files.**

***Ministry Response***

***Activities related to the review of objection files are recorded on the Ontario Tax Appeals System (OATS). The Ministry agrees that the system should contain enough information to demonstrate that timely action is being taken. OATS will be programmed to flag accounts for a manager's review when no action has been recorded on an account for six months. The manager will determine what action is needed to expedite completion of the file and ensure that an appropriate record is placed on the system.***

***Files are referred to the Legal Services Branch when the taxpayer commences an appeal under the provisions of the statute. Once a reply to the appeal is filed by the Legal Services Branch on behalf of the Ministry, the matter becomes a civil action in the Ontario Superior Court of Justice. It is the responsibility of the taxpayer who has commenced the action to pursue it through the courts.***

## MINISTRY OF HEALTH AND LONG-TERM CARE

# 3.07–Community-based Services

## BACKGROUND

The Ministry of Health and Long-Term Care (Ministry), through its Community Health Division, provides transfer payments to 42 Community Care Access Centres (CCACs) and to approximately 850 community support service (CSS) agencies for the delivery of community-based services. The funding is used to provide professional, homemaking, and personal support services at home for people who would otherwise need to go to, or stay longer in, hospitals or long-term-care facilities. Funding is also provided to assist frail elderly people and people with disabilities to live as independently as possible in their own homes.

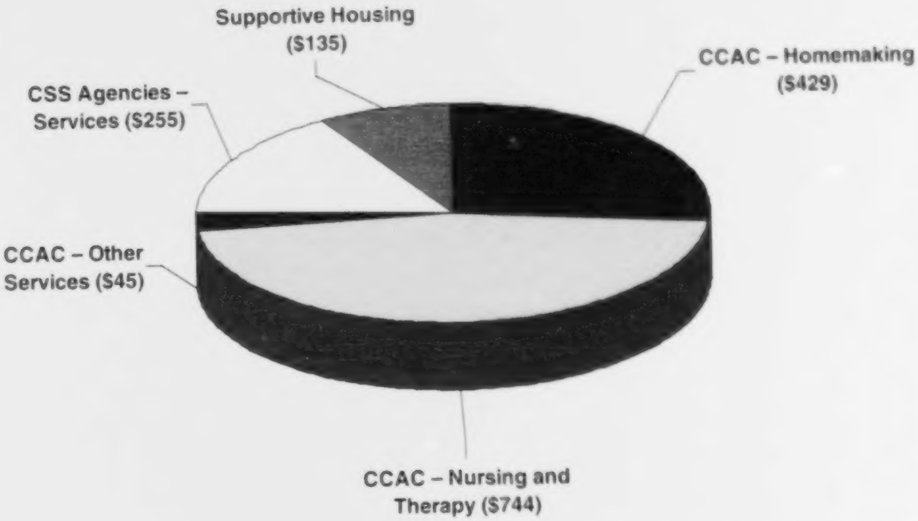
**Examples of Ministry-funded, Community-based Services**

| Services accessed through CCACs and purchased on behalf of service recipients: | Services accessed through and delivered by CSS agencies: |
|---|---|
| ▪ Professional Services<br>- nursing<br>- occupational therapy<br>- physiotherapy<br>- social work | ▪ supportive housing<br>▪ Meals On Wheels<br>▪ transportation<br>▪ home maintenance and repair<br>▪ friendly visits<br>▪ security checks |
| ▪ Homemaking Services<br>- housecleaning<br>- laundry<br>- shopping, banking, paying bills<br>- preparing meals | |
| ▪ Personal Support Services<br>- assistance with daily living, for example, personal hygiene | |

*Source of data: Ministry of Health and Long-Term Care*

In the 2003/04 fiscal year, the Ministry provided approximately $1.6 billion in funding through transfer payments to CCACs and CSS agencies. Funding for the 1997/98 fiscal year, when we last audited this program, totalled $1.2 billion.

**Community-based Services Expenditures, 2003/04**
**($ million)**



*Source of data: Ministry of Health and Long-Term Care*

Legislative authority for providing and delivering community-based services is established under the *Long-Term Care Act* and the *Health Insurance Act*. The *Community Care Access Corporations Act, 2001* transformed CCACs from not-for-profit corporations with independent community-appointed boards to statutory corporations with board members appointed by the Lieutenant Governor in Council.

The administrative, financial, and reporting requirements that must be followed by CCACs and by CSS agencies are outlined in memorandums of understanding and in service agreements between each CCAC or CSS agency and the Ministry.

The Community Care Access Centres Branch of the Ministry's Community Health Division is responsible for making decisions about funding and resource allocation, for establishing policy direction, and for implementing reform initiatives for community-based services. The Ministry's seven regional offices are responsible for program administration and for allocating funding to the CCACs and CSS agencies in accordance with applicable legislation and ministry policies.

## AUDIT OBJECTIVE AND SCOPE

The objective of our audit of the community-based services transfer-payment programs was to assess whether the Ministry had adequate procedures in place to ensure that services provided by Community Care Access Centres and community support service agencies were meeting the Ministry's expectations in a cost-effective manner.

Our audit was performed in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances. The criteria used to conclude on our audit objective were discussed with and agreed to by ministry management.

The scope of our audit work included reviewing and analyzing relevant information available at the Ministry's CCAC Branch, at three of the Ministry's seven regional offices, and at the Long-Term Care Redevelopment Project Office, as well as discussions with appropriate staff. In addition, we surveyed other jurisdictions and met with researchers and experts in the field of community-based services, and with representatives of the Ontario Home Health Care Providers' Association, the Ontario Association of Community Care Access Centres, and the Ontario Community Support Association.

We reviewed the work of the Ministry's Internal Audit Service and noted that they had not conducted any recent audits or reviews relating to the provision of community-based services that affected the scope of our audit.

## OVERALL AUDIT CONCLUSIONS

The Ministry has recognized the need to improve its procedures to better ensure that Community Care Access Centres (CCACs) and community support service (CSS) agencies are meeting the Ministry's expectations in a cost-effective manner. For instance, the Ministry was in the process of implementing a number of initiatives to improve CCAC accountability, consistency, and co-ordination, including a standard Memorandum of Understanding, a standard format for CCAC annual business plans, and a draft policy manual to be followed by CCACs.

While progress is being made, a number of the concerns that we raise in this report mirror concerns we raised in our *1998 Audit Report*. These include the need for: a funding formula that more fully allocates funds based on assessed needs; measures to demonstrate clients are in fact receiving quality care; and an information system to collect client-level service and costing data. In particular, in our current audit we found that:

- The formula used by the Ministry to determine the level of funding to be provided to CCACs and CSS agencies still does not assess the need for services or ensure equitable province-wide access to services. An independent review of the funding formula noted that the Ministry had not fully taken into account substantial variations in different parts of the province regarding the need for home care and concluded that some CCACs were receiving significantly more or significantly less money than they would have if service levels were being applied consistently throughout Ontario.
- From 2001/02 to 2002/03, during a period when funding provided to CCACs was frozen at 2000/01 levels, the number of nursing visits decreased by 22% and the number of homemaking hours decreased by 30%. The Ministry had not formally assessed the impact of such a significant decrease either directly on recipients or indirectly on other parts of the health care system (through, for example, an increased need for hospital care).
- The Ministry had not yet developed service standards to determine whether community-based services are being provided at expected levels and in a consistent, equitable, and cost-effective manner across the province.
- A standard assessment tool for use by all CCACs across the province, which would help ensure consistent assessments of client needs, was in the process of being implemented.
- The Ministry needed to expand its efforts to assess the quality of the care being provided to service recipients and to determine whether legislation and ministry standards were being complied with.
- The Ministry acknowledged in 1998 that the development of a new information system was a high priority. While progress has been made, the information needed to effectively monitor and manage community-based services, such as client-level service and costing data, was not yet available.
- To address our 1998 recommendation that CCACs verify that individuals requesting services had a valid Ontario Health Insurance Plan (OHIP) card (health card), the Ministry implemented a dial-in verification system. However, of over 250,000 individuals who had received services from 25 of the 42 CCACs during the two-year period since the system was implemented, fewer than 1,000 individuals had had their health card number validated using the new system.

We have had discussions with the Ministry and have made recommendations for improvement. In its responses to our recommendations, the Ministry stated that it was making progress in addressing our concerns.

# DETAILED AUDIT OBSERVATIONS

## *PROGRAM FUNDING*

### Funding Based on Identified Needs

The need for community-based services in different parts of the province varies with the availability of other services in each region and the characteristics of each region's population–for example, the number and age of elderly people and people with disabilities, the severity of disabilities, and the level of support provided by family and friends.

In our *1998 Annual Report*, we noted that the Ministry, in the 1994/95 fiscal year, had introduced a formula for allocating new funding to different areas of the province. At that time, the Ministry recognized that many areas were receiving less than an equitable share of existing funding, while others were receiving much more. We recommended that to better ensure equitable funding and consistent access to services based on need, the Ministry should ensure that its funding formula takes into account specific service needs, ongoing demographic changes, and changes in the health care system. The Ministry indicated that it would continue working "toward eliminating the inequities in funding and differences in service levels" among service areas and would regularly review and validate the effectiveness of the funding formula.

In June 2002, a Community Funding Review Committee, with representation from various stakeholders, engaged a research organization to assess the current formula and to recommend possible improvements. The researchers proposed a funding formula that took into account the health and socio-economic characteristics of the population served by each Community Care Access Centre (CCAC) service area.

In 2003, the research organization reported that, based on information contained in a 1996/97 health survey, there were substantial differences between what it estimated was required by individual CCACs and the current funding levels. According to the researchers' formula, in the 1999/2000 fiscal year, 20 of the 43 CCAC areas were overfunded by more than 10%, while 15 were underfunded by more than 10%, based on local service needs. For example, the researchers estimated that for the 1999/2000 fiscal year, one CCAC that was receiving only $101 per capita should have been receiving $317 per capita. Another CCAC that was receiving $111 per capita should have been receiving only $56 per capita. The researchers also recommended that the Ministry update their analysis using the most current data on home care utilization and more current health survey data. The Community Funding Review Committee endorsed the research results, but we understand that the researchers' analysis has not been updated, nor has the Ministry decided how to best proceed in allocating funding based primarily on the needs of each region of the province.

One limitation of both the current funding formula and the researchers' formula is that both use CCAC service information to allocate funds for community support services. In our *1998 Annual Report*, we noted that the funding formula did not address the division of funds between CCACs and community support service (CSS) agencies. At that time the proportion of funds allocated to both groups varied significantly among different areas of the province. Since the services arranged by CCACs and those provided by CSS agencies (such as transportation assistance and Meals On Wheels) often serve different needs and are not interchangeable, large variances may indicate greater inequities in access to certain services among different areas of the province than what is indicated by the formula. For instance, in one area the CCAC received 69% of the funding, while in another area the CCAC received 90% of the funding. The remaining funds were allocated to CSS agencies. In response to a recommendation in our *1998 Annual Report*, the Ministry stated that the "major differences in the local split of funding between [CCACs and CSS agencies were] being addressed." At the time of our current audit, there were still significant differences among regions in the proportion of funding allocated to CCACs and CSS agencies.

## Recommendation

**To help ensure that people with similar needs living in different areas of the province have equitable access to a similar level of community-based services, the Ministry should ensure that:**

- **funding is allocated based on assessed need, using current data; and**
- **the formula for allocating regional funding to Community Care Access Centres and to community support service agencies takes into account the need for different types of services.**

### *Ministry Response*

***The Ministry supports this recommendation and has modified its funding methodology to achieve the goals. Specifically, the funding formula was revised (in June 2004) to facilitate the equitable per capita distribution of funds between regions for 2004/05. The Modified Equity Funding Formula takes into account the factors that measure relative population needs—for example, population size, age, gender, rurality, and the level of service needs of individuals discharged from hospitals to home care.***

***As well, the most recent data from the Ontario Home Care Administration System, which includes 2003/04 utilization and population data, have been used for the most current funding allocation in 2004/05.***

## Cost Containment Measures—CCACs

From the 1997/98 fiscal year to the 2000/01 fiscal year, CCACs incurred deficits totalling approximately $118 million that ultimately had to be funded by the Ministry. In May 2001, the Ministry informed CCACs that funding for the 2001/02 fiscal year would be frozen at the 2000/01 levels. CCACs indicated that, as a result, reductions in services would be required to enable them to offset rate increases in their service provider contracts. One CCAC noted that, based on the result of a competitive bidding process, it was facing a 48% increase in the cost of each nursing visit over the term of its contract with the service provider.

The Ministry provided CCACs with guidelines for developing consistent and appropriate cost containment strategies to balance their budgets. The Ministry's regional offices stressed that cost containment must be based on individual client assessments and must be consistent with legislation and ministry policies. The *Long-Term Care Act* requires agencies to develop a plan of service for each of their clients. If a service is not immediately available, the client should be placed on a waiting list for that service. Once a plan is approved and the client begins receiving services, there is no provision for revising the plan due to financial constraints. The Act permits revisions only when an individual's requirements change.

In reviewing regional correspondence, we noted that several strategies that were proposed appeared to contradict ministry guidelines. For example, while the guidelines prohibit arbitrary reductions in services, several CCACs proposed initiatives that included across-the-board service reductions. We noted that from 2000/01 to 2002/03, the number of homemaking hours and nursing visits decreased by 30% and 22%, respectively. The Ministry indicated that it had analyzed the impact of these decisions by reviewing submissions to the Health Services Review and Appeals Board. However, this would not be sufficient to determine the impact of service reductions on the recipients of community services or on other parts of the health care system, such as long-term-care facilities and hospitals. The magnitude of such decreases in service levels warranted more formal follow-up by the Ministry.

### Recommendation

**To help ensure that the impact of any future cost containment or enhancement strategies employed by Community Care Access Centres can be assessed, the Ministry should:**

- **monitor the extent of significant changes in services provided to individuals to ensure that the changes are being made in accordance with legislation and ministry guidelines; and**
- **formally evaluate the impact of significant cost containment initiatives on service recipients and on other parts of the health care system.**

**Ministry Response**

***In 2003/04, the Ministry informed Community Care Access Centres (CCACs) that service reduction decisions can only be based on appropriate reassessment of client needs. Common assessment tools and schedules for regular reassessment will assist CCACs in the future to provide appropriate services to clients.***

## Waiting Lists

Properly maintained and monitored waiting lists for services are one source of information to assist the Ministry in determining whether access to services is equitable. However, the Ministry has limited information on waiting lists and waiting times. While information received by the Ministry from CCACs was more recent, we had concerns as to its consistency and accuracy.

The *Long-Term Care Act* gives the Minister the authority to make regulations governing waiting lists and rules for ranking applicants for services. However, at the time of our audit, there were no regulations in place addressing these matters, and the Ministry did not have comprehensive guidelines on waiting list management that could be used by all CCACs. Accordingly, since there may be inconsistencies among CCACs because individual CCACs set their own criteria for placing clients on waiting lists, the information provided to the Ministry may not be comparable. For example, correspondence from one regional office to a CCAC indicated that clients should be placed on a waiting list for a service only if the service can be provided within a week or two; otherwise, the individual should not be included on the waiting list. Such an approach could significantly understate the number of people actually needing services.

Although the Ministry did periodically summarize waiting lists, there was no information regarding the length of time individuals had spent on either current or past waiting lists, or on average waiting times for each type of service historically. According to information collected by the Ministry, some regions had significant numbers of individuals waiting for physiotherapy, occupational therapy, and speech therapy as at March 31, 2003.

**Regional Waiting Lists by Service Type, as at March 31, 2003**

| Service Type | Region | | | | | | | Total |
|---|---|---|---|---|---|---|---|---|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | |
| homemaking | 17 | 0 | 0 | 31 | 9 | 37 | 0 | **94** |
| nursing | 0 | 0 | 0 | 50 | 1 | 57 | 0 | **108** |
| physiotherapy | 121 | 157 | 415 | 666 | 423 | 197 | 51 | **2,030** |
| occupational therapy | 1,596 | 350 | 1,910 | 705 | 1,115 | 395 | 131 | **6,202** |
| social work | 92 | 3 | 90 | 63 | 52 | 18 | 11 | **329** |
| speech therapy | 1,176 | 552 | 1,379 | 269 | 852 | 132 | 239 | **4,599** |
| dietetic services | 44 | 7 | 44 | 73 | 47 | 34 | 2 | **251** |
| **Total on waiting lists** | **3,046** | **1,069** | **3,838** | **1,857** | **2,499** | **870** | **434** | **13,613** |

*Source of data: MOHLTC Community Services System–March 31, 2003*

We reviewed the waiting lists for CCAC services for the previous two years and found consistent trends. We also noted that in some regions, one or two CCACs accounted for most of the region's waiting list. Therefore, difficulties in accessing services may not apply to the entire region. For example, one out of the four CCACs in one region accounted for 45% of its region's waiting list. We believe that reliable information of this nature would be extremely useful to the Ministry as input for its funding allocation process, both on a regional basis and for individual CCACs within each region.

## Recommendation

**To help ensure that access to community-based services is provided on an equitable basis across the province, the Ministry should:**

- **establish consistent policies and procedures for maintaining waiting lists; and**
- **collect and analyze waiting list and waiting time information and use that information as part of its funding allocation process.**

### *Ministry Response*

***The Ministry supports these comments and has made significant progress in implementing the recommendation.***

***Beginning in 2003/04, the Ministry has developed draft policies and procedures for maintaining waiting lists that have been communicated to Community Care Access Centres through regional offices. The Ministry collected waiting list information and used that information to provide one-time funding.***

## Acquisition of Services by Community Care Access Centres

In 1996, the then Minister announced that CCACs would be required to acquire nursing, homemaking, personal support, and other services through a competitive process based on the highest quality at the best price. In our *1998 Annual Report*, we recommended that the Ministry evaluate the implementation of the competitive process and that the Ministry develop and implement standardized methods that CCACs could use to assess whether the quality-of-service commitments made by successful bidders were actually being met.

During our current audit, we found that the Ministry still had not developed the necessary processes for assessing whether the quality-of-service requirements specified in the requests for proposals were being met, which would assist the Ministry in comparing the quality of services and the cost-effectiveness of processes among CCACs. However, we noted that independent research was being conducted, with ministry involvement, to evaluate the impact of the competitive process on the quality of community nursing services and on outcomes for clients. It is also important for the Ministry to monitor the impact of the competitive acquisition process on the supply of services. For instance, if a CCAC in a particular region contracts with only one or two suppliers, doing so may reduce future competition, especially in areas where there are few suppliers.

### Recommendation

**To help ensure that the request-for-proposals process is meeting the Ministry's objective of acquiring high-quality services at the best price, the Ministry should:**

- **obtain reliable information to enable it to assess not only the cost of the services being provided but also the quality of service; and**
- **monitor the overall impact on the supply of available service providers, particularly in areas where there are few suppliers.**

### *Ministry Response*

***The Ministry fully supports this recommendation and recognizes the need for assurance that Community Care Access Centres (CCACs) are providing high-quality services at the best price.***

***Request-for-proposals documents clearly define expected services, a reporting mechanism has been established for CCACs to monitor service provision, and the Ministry will be collecting specific qualitative and quantitative data related to service provision. The impact on the supply of available service providers will continue to be monitored by data collected on the number of exceptions to***

***the procurement process and the number of service refusals by service providers. Policies are in place that can address issues arising in areas where there are few suppliers.***

## COMMON ASSESSMENT TOOL

Since 1990, the Ministry has recognized the need for a common intake assessment process to ensure that individuals with similar needs are assessed as requiring the same level of service, regardless of where in Ontario they live. Data gathered using such a process could also be used to develop provincial standards for access and service delivery.

In 1997, the Ministry began testing a ministry-developed common assessment tool in five CCACs. The CCACs found that this tool had significant shortcomings, so in April 2001, the Ministry established an expert panel to select a standard assessment tool to meet CCAC requirements. The panel recommended the Resident Assessment Instrument–Home Care (RAI–HC), a comprehensive standardized tool for evaluating the needs and strengths of adults receiving community-based services.

The RAI–HC is being introduced for clients who require services for longer than 59 days and who may eventually require admission to long-term-care facilities. A paper version of this assessment tool was required to enable the Ministry to meet its commitment to implement a standard assessment tool for such clients by December 2003. The estimated three-year cost to acquire and implement the paper version, and to train CCAC case managers in its use, was $15 million, and the Ministry had completed the project within that budget by the end of the 2003/04 fiscal year.

In July 2003, the Management Board of Cabinet approved the acquisition of the RAI–HC software for CCACs. In February 2004, the common assessment tool software contract was signed, with an approved cost of approximately $3.7 million over four years. Upon full implementation of the software in CCACs, the paper version will no longer be required.

Also in February 2004, ministry staff advised us that a module for clients who require services for up to 59 days would soon be tested in several CCACs and that the Ministry was developing a project plan for this module, including a time frame for its implementation over two years.

Progress is being made on the implementation of standardized province-wide intake and assessment tools. However, it is critical that the Ministry have the necessary system and regional-office oversight mechanisms in place to ensure that the automated tools are applied consistently and are effective in providing equitable access to and consistent levels of service.

**Recommendation**

**To help ensure that client care needs are assessed in a consistent manner across the province, the Ministry should monitor the effectiveness of the common assessment tool in providing consistent levels of service for similar clients across the province.**

***Ministry Response***

***The Ministry recognizes the importance of this recommendation and has taken steps to ensure that by the end of 2004/05 full implementation of the Resident Assessment Instrument–Home Care software (for adult long-stay clients) for all Community Care Access Centres will be completed.***

***The development of triage and short-stay tools (for adult short-stay clients) will begin implementation in winter 2004/05.***

## *MONITORING OF CCACs AND CSS AGENCIES*

### Service Agreements and Financial Reporting

The Ministry requires three types of reports from CCACs and CSS agencies:

- Annual service agreements consist of a legal agreement, a service plan, and a budget.
- Quarterly financial and statistical reports, submitted to the Ministry's regional offices, provide information that is needed to monitor the services actually provided and the actual expenditures.
- Annual reconciliation reports (ARRs), including audited financial statements, are to be submitted to the regional offices within three months after year-end.

For the 2001/02 and 2002/03 fiscal years, we found that all three of the regional offices we visited had adequate processes for monitoring the receipt of CCACs' and CSS agencies' service plans, budgets, and ARRs. However, we also noted that although budgets were submitted in a timely manner, regional review and approval were not timely. For example, the CCACs and the CSS agencies received approvals for their 2002/03 budgets only in January 2003, nine months into the fiscal year. As well, the Ministry had not established expected time frames for regional reviews of ARRs and audited financial statements.

**Recommendation**

**To help ensure that the funding and reconciliation processes promote timely and consistent monitoring and evaluation of an agency's use of resources, the Ministry should develop performance standards for the regional processing of annual reconciliation reports and expedite the review and approval of annual budgets.**

***Ministry Response***

***The Ministry has been and will continue working towards effective monitoring and evaluation of agency resources.***

***Regional financial staff review annual reconciliation reports submitted by Community Care Access Centres. Regional staff use the Budget Analysis and Review Tool to review and approve their annual budgets in an expedited manner.***

## Monitoring of Service Providers

The *Long-Term Care Act* requires that agencies approved under the Act establish processes for receiving and reviewing complaints from service recipients. The Ministry currently requires that annual service submissions from CCACs and CSS agencies contain a description of their complaint handling processes and quality management policies and processes.

In our *1998 Annual Report*, we noted that the Ministry's regional offices did not have a system to record the receipt, details, and status of complaints received concerning community services. The Ministry indicated it would develop a formal process for the consistent recording and disposition of complaints received. The Ministry also stated that it would require that CCACs report statistical information on the number, type, and disposition of client complaints. Other agencies funded to deliver community services would be required to inform their clients of the process for making a complaint and would be required to report similar data.

In our current audit, apart from some written complaints that were on file, we found that two of the three regions we visited still did not have a system to monitor the receipt of or track the status of complaints that were received.

In both our 1998 audit and current audit, we noted that regional offices had not formally reviewed the adequacy of complaint processes. Moreover, in December 2000, consultants engaged by the Ministry found variations in the definition of complaints, and approaches to tracking complaints made it difficult to determine the number and types of complaints received by CCACs.

In April 2003, the Ministry released a draft complaints policy for community support services agencies that requires these agencies to promptly report serious incidents and continuous issues to the Ministry's regional offices. Agencies would also be required to report complaint information to the Ministry annually, including trends in complaints received, plans to resolve complaints, and how trends in complaints have increased or decreased. However, the policy did not include a requirement that CCACs routinely report on the number, type, and resolution of the complaints they received.

The *Long-Term Care Act* also permits the Minister of Health and Long-Term Care to appoint program supervisors to inspect the business premises of a community service provider, as well as premises where community services are provided. Inspections are a means of assessing the quality of services being provided and compliance with provincial legislation and standards.

In our *1998 Annual Report*, we noted that the Ministry was not conducting inspections and had not developed procedures for conducting them. We also noted that similar programs in the United States and United Kingdom required visits to the people receiving care and services. We recommended that the Ministry develop appropriate inspection procedures and conduct periodic inspections of agencies. However, in our current audit we found that the three regional offices we visited were not conducting periodic inspections of CCACs or CSS services, and, although CCAC staff were making informal visits to agencies, these were not always documented.

**Recommendation**

**To help ensure that clients are receiving effective and high-quality community services, the Ministry should:**

- **develop a formal process that records the receipt and resolution of all complaints at regional offices;**
- **monitor the complaints processes at Community Care Access Centres (CCACs) and community support service agencies to ensure consistency;**
- **require that CCACs and other community service agencies periodically submit summary information on the number and types of complaints they have received and their resolutions; and**
- **develop a risk-based process for conducting periodic inspections of service providers and visits to selected clients.**

***Ministry Response***

***The Ministry fully supports this recommendation and has made significant progress in achieving it.***

***Community Care Access Centres (CCACs) have complaints processes in place as required by the* Long-Term Care Act. *The Ministry has instructed CCACs to***

***advise regional offices of unresolved complaints, and an improved complaint monitoring process is being developed.***

***In April 2004, the Ministry implemented a complaint policy for community support services that establishes a consistent definition of a complaint and requires that agencies advise clients of services, policies, the process for making a complaint, and steps to appeal. A tracking process is also in place, and agencies are required to report on complaints in the annual service plan they submit to the regional office.***

***Quality services for CCAC clients are ensured by CCAC case managers who consult directly and visit with the service recipient and through the regular monitoring and evaluation of service contracts. The Ministry has developed an accountability framework for CCACs that sets service monitoring mechanisms, including quality satisfaction surveys, and also identifies performance objectives and outcomes for the provision of services.***

## INFORMATION SYSTEMS

Consistent data collection and reliable information systems are required to effectively manage large, diverse programs such as community-based services. The Ministry is responsible for ensuring that locally developed systems interface effectively with ministry systems. In our *1998 Annual Report*, we noted that CCACs require timely and accurate information to effectively manage their operations. At that time, the Ministry stated that it "recognize[d] the need to replace a substantially outdated information system that no longer [met] its requirements." The Ministry also stated that development and implementation of an appropriate system was a high priority.

The Ministry maintains a number of information systems that provide data to CCACs. The same two primary systems used by the Ministry at the time of our 1998 audit are still being relied on to monitor the costs and utilization of services. The Community Services Budget System (CSBS) collects financial and operational statistics from quarterly reports submitted by CCACs and CSS agencies, but does not contain information about the individuals who received the services. The Ontario Home Care Administration System (OHCAS) receives data submitted by the CCACs relating to service utilization, but also contains no recipient-specific cost information.

### Common Information System for CCACs

In 1998, the Ministry established a CCAC Information Management System Council to introduce common technology at all CCACs before implementing a common information system known as the Services Management System (SMS). In 1999, the Council was replaced by Community Care Connects! (C3), a joint project team comprising the Ministry and representatives from the CCACs, which has responsibility for developing the new system.

In 1999, an independent review of the SMS development process noted technical problems that indicated that the SMS would not meet the CCACs' business requirements. As a result, in 2000, the Ministry began developing an Integrated Management System (IMS) to replace the SMS, which had cost approximately $10 million before its development was stopped. One of the objectives of the IMS was to "replace the existing patchwork of information systems with one that is consistent and appropriate for all CCACs." The IMS was to comprise a number of interrelated software modules, including modules for care management, business administration, contract management, information and referral, and financial reporting and analysis. The IMS was to be developed and implemented in phases.

In December 2001, a consultant reviewed the IMS project and made recommendations aimed at improving the project's governance, budgeting, planning, and delivery. A number of the consultant's observations related to the efficient and effective development and implementation of the IMS project, and many of the recommendations relating to governance and funding were similar to those that had been raised in the 1999 evaluation of the SMS. For instance, the reviews of both the SMS and the IMS noted that no effective project team structure existed, that the team consisted primarily of private contractors, and that neither the Ministry nor one private-sector firm had full knowledge of or control over the project. In fact, the consultant who reviewed the IMS project recommended that non-critical project activities be placed on hold until an effective governance structure could be introduced.

Seventeen months later, in May 2003, an executive lead for the C3 project was hired. However, at the time of our audit, action on the review's remaining recommendations (such as developing a business case and a long-term plan) was still outstanding. We noted that, with ministry approval, some CCACs had decided to implement their own systems to meet their immediate needs. For instance:

- In February 2003, five CCACs launched a project to competitively acquire a waiting list management system to assist in the allocation of long-term-care-facility beds.
- One CCAC received ministry approval to tender for the development of a $2.2 million integrated case management system to improve the efficiency of its case managers and thereby to save approximately $1 million a year. In its request to use part of its operating surplus to fund the new system, the CCAC indicated that it could not wait the estimated three years for the Ministry to develop and implement a case management system.

**Recommendation**

**To help ensure that the new Integrated Management System will provide appropriate information to both the Ministry and Community Care Access Centres (CCACs) for planning, monitoring, and decision-making, the Ministry should:**

- **implement effective project management controls; and**
- **knowledgeably monitor whether the ongoing development, both at the Ministry level and at the CCACs, is meeting planned implementation goals.**

***Ministry Response***

***The Ministry has been and will continue working towards effective information-gathering and appropriate monitoring controls for the new Integrated Management System.***

***Since 2001, new structures have been implemented to address project organization and governance to ensure appropriate business and I&IT leadership on the project.***

***In August 2002, the Ministry formed a C3 Executive Committee to provide high-level oversight to ensure compliance with ministry procedures and proper accountability for ministry funding.***

***Continuing Care e-Health Council formed the CCAC Subcommittee to give tactical direction to the project. In addition, steering committees were formed to guide specific sub-projects, including:***

- ***Financial and Statistical Management System (FSMS) Request for Proposal Development and Evaluation;***
- ***Assessment Software RFP Development and Evaluation; and***
- ***FSMS Implementation and Assessment Software Implementation.***

***Current projects, including the FSMS Implementation and the Assessment Software Implementation, are managed using a comprehensive set of project management procedures. These are designed to maintain tight control of project costs, deliverables, scope changes, issues, and risks, in accordance with the Human Services I&IT Cluster's Best Practices for Project Management.***

## Business Case and Implementation Plan

In our review of the development of the IMS project, we requested a copy of the approved business plan, including estimated costs. The Ministry's "Business Area Analysis" (BAA) report provided an overview of the key CCAC business and system requirements and recommended that the Ministry build the IMS project incrementally using a combination of packaged and custom software. However, the BAA did not contain a detailed implementation plan and did not outline the anticipated costs of and priorities for implementing the various software modules.

Given this project's size and complexity, we would have expected that a detailed business plan (including estimated costs, specific deliverables, implementation plans, and rollout time frames) would have been developed for senior ministry and Management Board of Cabinet approval.

The processes required to approve the acquisition of information technology are set out in the policies and directives of the Management Board of Cabinet and the Office of the Corporate Chief Information Officer. Management Board of Cabinet approval is required when the technology's expected cost is more than $1 million. In 1998, the Board approved funding for developing and implementing the SMS project. Subsequent ministry correspondence with Management Board indicated that the development and implementation of the IMS would begin with the $44.5 million remaining in the original three-year SMS budget.

In a September 2002 submission to the Management Board of Cabinet, the Ministry indicated that over the next three years, it would require a total of approximately $90 million to implement and maintain the approved IMS modules. As of March 31, 2003, the Ministry reported expenditures totalling approximately $65 million on the IMS project and $10.5 million for maintaining current systems. Expenditures on the IMS project included the costs for leasing 5,500 computers for CCACs, servers, routers, firewalls, telecommunication services, and staffing. According to the Ministry this accounted for approximately $38 million of the $65 million spent. Other costs included system development and development of the common assessment tool. Although periodic status reports were made to the Management Board of Cabinet, the Ministry was unable to provide us with specific Management Board of Cabinet approval for the IMS project as a whole before commencement of the project.

### Recommendation

**In future, to help ensure that information systems of the magnitude and complexity of the Integrated Management System are developed and implemented in an efficient and economical manner, the Ministry should:**

- **ensure that all business requirements are defined in detail and reflected in project deliverables;**
- **prepare a proper business case containing estimated costs for developing, implementing, and maintaining the system; and**
- **obtain appropriate approval for the project's funding in advance of committing funds.**

**Ministry Response**

***The Ministry recognizes and supports the need for the development of appropriate business cases and receipt of proper approvals.***

***However, it should be pointed out that the Ministry has viewed the Integrated Management System (IMS) as a series of multiple projects that should be executed in a phased plan. Approvals were sought and received for specific components instead of a blanket approval. The reason for this was the Ministry's requirement to be able to respond to potential changes in the Ministry's priorities over the course of a multi-year time frame.***

***Measures have also been taken to ensure that projects proceed only on the strength of approved business cases and align with long-term plans. Management Board submissions, which included a full perspective of the phased IMS, implementation plans, and updates on progress, have been prepared and approved for the Financial and Statistical Management System and Assessment projects.***

***Requests for proposals to supply components of the IMS were conducted in conformity with the Inter-provincial Agreement on Open Procurement.***

## Implementation of *Guidelines for Management Information Systems*

In April 2003, the Ministry mandated that all CCACs were to collect and report financial and statistical information using the *Guidelines for Management Information Systems in Canadian Health Service Organizations* (MIS Guidelines), "a set of national standards for gathering and processing data, and reporting financial and statistical data on the day-to-day operations of a health service organization" that also "provide a framework for integrating clinical, financial and statistical data when service recipient costing is done."

Implementing the MIS Guidelines' standard chart of accounts and definitions will allow for better comparisons between agencies. To meet this standard, the Ministry and the CCACs agreed to implement a comprehensive Financial and Statistical Management System (FSMS) as part of the Integrated Management System.

In January 2003, the Management Board of Cabinet approved the issuance of a request for proposals to acquire a comprehensive FSMS for CCACs. The successful vendor quoted a price of \$2.54 million for the base MIS modules and \$1.53 million for the enhanced FSMS modules. In May 2003, the Management Board of Cabinet approved the implementation of the FSMS's base MIS modules but not the enhanced modules. Implementation in CCACs is expected to be complete in June 2004, after which those modules could be provided to large community support service agencies. Doing so would help provide comparable unit costs for similar services provided.

While CCACs have expressed a need for the enhanced FSMS modules, which include case costing and utilization, budgeting and forecasting, and human resources scheduling, acquisition is dependent on approval and available funding.

**Recommendation**

**To assist both the Ministry and Community Care Access Centres in better managing budgets and resources, the Ministry should assess the benefits of implementing:**

- **the enhanced modules of the Financial and Statistical Management System (FSMS); and**
- **the FSMS in larger community support service agencies.**

***Ministry Response***

***The Ministry supports this recommendation and will continue to assess the benefits of implementing the enhanced modules of the Financial and Statistical Management System (FSMS).***

***The Ministry's plans for implementing the enhanced modules of the FSMS include work to assess the benefits on a location-by-location basis and a commitment to proceed only in the areas where it is required to do so.***

***The Ministry intends to continue to use the Management Information System (MIS) guidelines. The Ministry anticipates that by 2006, MIS will begin including information from the larger community support service agencies, subject to approvals. Using common reporting guidelines across all sectors will provide better indicators and result in better management of budgets and resources.***

## ELIGIBILITY FOR COMMUNITY-BASED SERVICES

To be eligible for the professional, personal support, and homemaking services provided through a CCAC, an individual must have a valid Ontario Health Insurance Plan (OHIP) card (health card). In 1998, we noted that CCACs were not routinely checking this requirement. The Ministry responded that it would reinforce with CCACs that a process must be in place to ensure that health card numbers are validated for individuals receiving in-home services.

To help CCACs validate their clients' eligibility, the Ministry provided CCACs with access to a dial-in verification system. During our current audit, we requested a summary from the Ministry of the number of times each CCAC accessed the dial-in verification system from April 1, 2001 to March 31, 2003. According to this summary, 17 of the 43 CCACs had never used the system to validate any health card numbers during the two-year period, while eight had validated fewer than 100 numbers each.

During the same period, more than 250,000 individuals had received community-based services from these 25 CCACs.

**Recommendation**

**To help ensure that community-based services are provided only to eligible individuals, the Ministry should ensure that Community Care Access Centres are verifying whether individuals receiving services are covered by the Ontario Health Insurance Plan.**

***Ministry Response***

***Most clients are referred to Community Care Access Centres (CCACs) by hospitals and physicians. Therefore, the Ministry believes that the actual number of clients ineligible for services as a result of a lack of coverage by the Ontario Health Insurance Plan is very small. The Ministry will remind CCACs of the need to verify health card numbers before services are provided to individuals.***

## *ACCOUNTABILITY AND PERFORMANCE REPORTING*

### Accountability

The Management Board of Cabinet, through its directives, provides guidance to ministries on developing accountability frameworks with provincially funded agencies. An accountability framework helps ensure that value for money is received for grants made, by defining expectations, monitoring and reporting on performance, and taking action where expectations are not being met.

In 2001, the government introduced the *Community Care Access Corporations Act* with the intent of strengthening the governance and accountability of CCACs. Since 2001, the Ministry has also begun a number of initiatives aimed at improving CCAC accountability, consistency, and co-ordination, including:

- A standard Memorandum of Understanding (MOU), setting out the CCACs' financial, operational, administrative, and reporting requirements, including performance measures. By the end of our audit, all CCACs established under the Act had signed the new MOUs.
- A standard format for CCACs to use in developing their annual business plans, including specific performance measures and reporting requirements.

- A draft policy manual setting out the legislative and regulatory requirements and policy framework to be followed by CCACs. According to ministry staff, the manual was scheduled to be implemented in fall 2004.

Under the *Long-Term Care Act*, the Minister of Health and Long-Term Care may approve agencies to provide community services if the Minister is satisfied that with financial assistance, the agency will be financially capable of providing the required service and will be operated in compliance with the requirements in the Act's Bill of Rights and with competency, honesty, integrity, and concern for the health, safety, and well-being of the persons receiving the service.

The Minister, by regulation under the *Community Care Access Corporations Act*, has designated CCACs as approved agencies under the *Long-Term Care Act*. CSS agencies have never been formally designated as such, but according to the Ministry's Legal Branch, they are legally considered "approved agencies" because they receive funding from the Ministry to provide services under the *Long-Term Care Act*. Despite this position, the Ministry has not complied with the Act's provision requiring, before approval, that the Ministry has satisfied itself that each of these agencies are operating in compliance with the Act.

We also noted that some CSS agencies were providing services, such as Meals On Wheels, that may have been partly or fully paid for by service recipients. This practice is contrary to the *Long-Term Care Act*, which does not permit payment for services unless specified in regulations, and no regulation has been passed to address this issue.

### Recommendation

**To ensure compliance with the *Long-Term Care Act*, the Ministry, before designating a community support service (CSS) agency as an approved agency under the Act, should assess whether the agency can comply with the relevant provisions of the Act.**

**If CSS agencies are to be permitted to charge fees for certain services, the Ministry should make the necessary changes to the regulations under the Act.**

### *Ministry Response*

***The Ministry recognizes the need for community support service (CSS) agencies to be fully compliant with the Act. Monitoring and review of annual service agreements ensures that all providers meet the criteria established under the Act.***

***The Ministry also supports the recommendation that changes to the regulations are required to permit CSS agencies to charge for services. Preliminary work was completed in 2003/04 outlining potential regulation changes to allow for CSS agencies to charge a fee for their service.***

## Performance Measurement and Reporting

Performance indicators provide a meaningful method for measuring and reporting on progress in achieving objectives. Good performance reporting should include the following attributes: clear goals and objectives; complete and relevant performance measures; appropriate standards and targets for measuring results; reliable systems for gathering the necessary information; and a reporting mechanism for regularly communicating accomplishments and areas requiring corrective action. Information of this nature would enable the Ministry to make more informed decisions about funding and other matters.

Although individual CCACs publish annual reports, the lack of key performance indicators and benchmarks limits the ability of the Ministry and the CCACs to compare performance between CCACs. The U.S. Medicare program has implemented home health quality measures in nine states and is committed to implementing such processes nationwide. Besides being a useful management tool, such measures provide the public with comparable information on the quality of care provided by individual federally funded home care agencies.

In 1999, the Ministry and CCACs began researching the development of service standards and performance measures. Although this project was terminated in 2001, when CCACs were made statutory corporations, ministry staff informed us that performance measures will be incorporated into CCAC business plans and that these measures will be reported on in the CCACs' annual reports.

For services provided by CSS agencies, measuring and reporting on the services rendered and the cost thereof is left up to the individual agencies. However, to date there has been little reporting. In fact, the Ministry cannot determine how many individuals receive services.

### Recommendation

**To better ensure that community-based services are provided in a consistent, equitable, and cost-effective manner, the Ministry should:**

- **develop key performance measures and targets for all programs; and**
- **ensure that appropriate information is gathered and that the right information is reported to enable management to monitor services provided and the costs thereof.**

#### *Ministry Response*

***The Ministry has taken action to ensure this recommendation is met.***

***Key performance measures for Community Care Access Centres were established in 2002/03. The Ministry will continue to refine these measures.***

***The Ministry will move towards implementing a balanced scorecard that looks at key indicators related to client satisfaction/appropriate setting, capacity/access, system integration, and accountability.***

# *TRAINING AND SCREENING WORKERS*

## Training and Qualifications

In May 1997, the ministries of Health and Long-Term Care and Education approved a curriculum for the Personal Support Worker (PSW) Training Program, a program aimed at providing standard training. In 1999, the Ministry of Health and Long-Term Care introduced the Personal Support Worker Bridging Program, which made available $10 million per year over five years to CCAC service provider agencies to offer training to their home care workers (on a voluntary basis) so that the workers would meet PSW Training Program requirements. Employees of long-term-care facilities and other CSS agencies were not eligible for this funding.

In 2000, a committee representing the homemaking industry, educators, and the Ministry recommended evaluating the implementation of the PSW Training Program. Although terms of reference were developed for hiring a consultant to evaluate the Training Program's success in meeting its mandate, evaluate the current curricula, and identify any strengths and weaknesses in the program, the evaluation was never undertaken. In 2001, the Bridging Program was extended to all community support agencies.

During our audit, we learned that service provider agencies were concerned that schools appeared to be interpreting the PSW curriculum differently. Several agencies reported instances where graduates lacked the necessary skills to provide services to clients. Given that the PSW Training Program has been underway for five years, an evaluation of the program's success is warranted.

During our audit we also noted that regional offices were inconsistently applying the funding eligibility rules. For example, while one region permitted CSS agencies to use surplus funds from the Bridging Program for other home care training for their workers, other regions requested that any surplus funds be returned. However, funding for the Bridging Program ceased at the end of the 2002/03 fiscal year.

**Recommendation**

**To help determine whether the Personal Support Worker (PSW) Training Program is a cost-effective approach for ensuring that home care workers have the necessary training, the Ministry should:**

- **evaluate whether the PSW Training Program is meeting its objectives; and**

- **work with the Ministry of Education to ensure that the Training Program's curriculum meets the sector's needs and is being implemented in a consistent manner by all training institutions.**

***Ministry Response***

***The Ministry agrees with the recommendation and will work with both the Ministry of Training, Colleges and Universities and the Ministry of Education to ensure the Personal Support Worker Training Program curriculum meets the sector's needs.***

## Screening of Employees Providing Care

Individuals who provide community-based services frequently have direct access to potentially vulnerable adults and their property. In our *1998 Annual Report*, we recommended that the Ministry should ensure that community-based service agencies appropriately screen all workers who provide care. Proper screening would help determine whether there are any reasons that a personal support worker should not be hired. In January 2000, a working group established by the Ministry developed a draft guideline on screening personal support workers.

In April 2003, the Ministry issued draft guidelines to the regional offices and indicated that CCACs and CSS agencies would be expected to follow these guidelines in screening new staff and to carry out ongoing screening of existing staff. We will continue to monitor the Ministry's progress in ensuring that appropriate procedures are in place and are being followed to ensure that personal care workers have been appropriately screened.

# 3.08–Independent Health Facilities

## BACKGROUND

Under the *Independent Health Facilities Act*, the Ministry of Health and Long-Term Care licenses and regulates approximately 1,000 independent health facilities (facilities) in Ontario. Most facilities are "diagnostic," meaning that they perform services—such as x-rays, ultrasounds, nuclear medicine, pulmonary function studies, and sleep studies—that can be helpful in diagnosing various conditions. At the time of our audit there were also 24 facilities that provided surgical and therapeutic services such as dialysis, abortions, and cataract, vascular, and plastic surgeries. These facilities function in a manner similar to hospital outpatient clinics. The majority of services performed at facilities result from a referral by a physician who has conducted a medical examination of a patient. The facility performs the requested tests and forwards the results to the requesting physician.

The technical fees to be paid to facilities that are licensed under the *Independent Health Facilities Act* are established under the *Health Insurance Act*. The technical fees, also known as "facility fees," cover the costs of providing services, such as the cost of medical equipment and administrative and occupancy costs. For the 2003/04 fiscal year, technical fee payments to diagnostic facilities and facilities providing surgical and therapeutic services totalled approximately $257 million and $16 million, respectively. The total payments are broken down by type of service in the following table.

**Technical Fees Paid to Independent Health Facilities, 1999/2000–2003/04**
**($ 000)**

| Service Provided | 1999/00 | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
|---|---|---|---|---|---|
| **Diagnostic Facilities** | | | | | |
| radiology | 96,215 | 96,339 | 98,303 | 102,678 | 106,140 |
| ultrasound | 68,941 | 73,717 | 79,011 | 88,730 | 96,202 |
| nuclear medicine | 17,310 | 18,813 | 20,513 | 24,369 | 29,287 |
| sleep studies | 16,911 | 20,270 | 25,058 | 23,449 | 21,296 |
| pulmonary function | 2,229 | 2,043 | 1,934 | 1,978 | 1,924 |
| MRI/CT* | — | — | — | — | 2,282 |
| | **201,606** | **211,182** | **224,819** | **241,204** | **257,131** |
| | | | | | |
| **Surgical/Therapeutic Facilities** | | | | | |
| dialysis | 7,120 | 7,305 | 8,226 | 8,209 | 8,154 |
| abortions | 4,838 | 5,093 | 5,961 | 6,025 | 5,341 |
| vascular surgery | 803 | 798 | 1,111 | 967 | 729 |
| plastic surgery | 772 | 718 | 731 | 796 | 898 |
| ophthalmology | 458 | 450 | 438 | 434 | 855 |
| laser surgery | 359 | 359 | 359 | 359 | 359 |
| | **14,350** | **14,723** | **16,826** | **16,790** | **16,336** |

*First introduced in 2003/04.

*Source of data: Ministry of Health and Long-Term Care*

The mandate of the Independent Health Facilities program is to: provide a funding mechanism for needed community-based services; ensure patients receive quality health care in independent health facilities; facilitate the establishment of such facilities; and ensure patients are not charged for services covered by the Ontario Health Insurance Plan (OHIP).

# AUDIT OBJECTIVES AND SCOPE

The objectives of our audit of the Independent Health Facilities program were to assess whether the Ministry had adequate procedures in place to ensure that:

- the Ministry and the facilities licensed under the *Independent Health Facilities Act* were complying with applicable legislation and policies for the licensing, funding, and assessment of the quality of services provided by facilities; and
- the program was fulfilling its mandate.

In conducting our audit, we reviewed relevant documentation and the Ministry's administrative policies and procedures, interviewed ministry staff, researched similar programs in other jurisdictions, and updated the current status of recommendations made in our 1996 audit of the Program. We also obtained additional information from the College of Physicians and Surgeons of Ontario and some of their assessors with regard to the quality assurance process.

Our audit was substantially completed in March 2004 and was conducted in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants and accordingly included such tests and other procedures as we considered necessary in the circumstances. The criteria used to conclude on our audit objectives were discussed with and agreed to by ministry management.

The Ministry's Internal Audit Service had not conducted any recent work on the Independent Health Facilities Program. Accordingly, we could not reduce the scope of our work by relying on its work.

# OVERALL AUDIT CONCLUSIONS

For the most part, the Ministry had adequate procedures in place to ensure compliance with applicable legislation and policies for the licensing, funding, and monitoring of independent health facilities. However, if the program is to cost-effectively fulfill its mandate, action is still required to address the following issues, a number of which we had identified in our last audit in 1996:

- The Ministry had still not assessed the relationship between the volume of services provided by individual facilities and the cost of providing services to determine whether the facility fees paid to independent health facilities were reasonable.
- The Ministry had not determined the levels of service that would be required and should be available to meet needs.
- The Ministry had not adequately analyzed the impact nor developed strategies to address the significant regional variations in service levels.
- Although funding to develop a waiting list management system began to be provided in 2000, the program still did not have waiting list information for diagnostic or surgical/therapeutic services.
- The Ministry did not have a process for determining which services should be provided by independent health facilities rather than by hospitals.
- The Ministry had not established time frames for the submission of facility assessment reports by the College of Physicians and Surgeons of Ontario to enable the Ministry to take timely and appropriate action based on assessment results.
- The Ministry had not yet implemented a process to determine which other services provided outside of hospitals and licensed independent health facilities, such as echocardiograms, should be covered by the *Independent Health Facilities Act* to ensure that these services are subject to an appropriate quality assurance process.

- While 70 sleep study clinics have been allowed to operate since 1998, 18 of them were still not licensed because they had either not yet been inspected or inspections had found that they were not meeting minimum quality standards.

# DETAILED AUDIT OBSERVATIONS

## *REASONABLENESS OF FACILITY FEES*

All diagnostic services offered at independent health facilities are divided into a professional component and a technical component. The physicians performing the services bill the Ministry for the professional component on a fee-for-service basis. This is done through the Ontario Health Insurance Plan in accordance with the Schedule of Benefits under the *Health Insurance Act*.

For most diagnostic facilities, the fees for the technical component (also known as "facility fees") are listed in the Schedule of Facility Fees for Independent Health Facilities and are also claimed on a fee-for-service basis. The technical component is intended to cover the costs associated with operating the facility, including the cost of premises, equipment, supplies, and personnel used to perform procedures. These fees are not adjusted to address factors that can have an impact on costs, such as the volume of services rendered annually. In contrast, technical fees for facilities offering surgical and therapeutic services and MRIs are funded through negotiated budgets with the Ministry that are based on the actual costs of providing a certain volume of service.

In our *1996 Annual Report*, we recommended that the Ministry assess the reasonableness of facility fees by studying the relationship between the volume of services provided and the costs of providing those services. The Ministry agreed and reported that its staff had been "working to develop a protocol to be used to examine the appropriateness of the fees and the applicability of volume discounts."

In a 2000 report, the Committee on Technical Fees, which included representatives from the Ministry, the Ontario Medical Association (OMA), and the Ontario Hospital Association, noted that "cost reimbursement should be used as the underlying principle for the funding of technical components of diagnostic services" and that historically, most of the fees had not been set through a rigorous costing process. The Committee also noted that there was a lack of information on the extent to which current fees deviate from real costs, that the fee schedule should be reviewed as soon as possible, and that an appropriate costing methodology would ideally incorporate factors such as economies of scale. The Committee suspected that with the introduction of new technology and equipment, some fees for existing services do not accurately reflect true current costs.

In April 2003, the OMA and the Ministry agreed to form a development team to establish a Diagnostic Services Committee to function as an advisory body to the

Ministry. The committee's responsibilities were to include developing and setting up the process for evaluating and administering technical fees. However, as of April 2004, this committee had not yet been formed.

**Recommendation**

**To help ensure that facility fees paid to independent health facilities are reasonable, the Ministry should:**

- **objectively determine the current cost of providing each type of service; and**
- **examine the relationship between the volume of services provided and the costs of providing services.**

***Ministry Response***

***In order to address the issue of facility and technical fees, the Ministry of Health and Long-Term Care agreed as part of the 2003 Memorandum of Agreement with the Ontario Medical Association to establish the Diagnostic Services Committee (DSC). The DSC will function as an advisory body to the Minister of Health and Long-Term Care for the purpose of planning and co-ordinating an efficient and effective diagnostic services system in the province of Ontario with accountability among users and providers of diagnostic services. It is also charged with examining how the technical component of diagnostic services (currently described as technical fees) will be evaluated, compensated, and administered, including establishing a costing methodology and an ongoing review process to reflect that reimbursement is based on actual costs and current service volumes.***

## DISTRIBUTION OF SERVICES

The Act allows the Ministry to license new independent health facilities through a request-for-proposal process after considering the nature of the services to be provided, the extent to which the services are already available, the current and future need for services, the projected cost, and the availability of funding. The Ministry has indicated over a number of years that it is committed to a publicly funded, universally accessible health care system that provides services to all the people of Ontario where they need them and when they need them.

### Diagnostic Services

Since 1990, despite a number of expressions of interest for licences, a minimal number of additional facilities have been licensed under the Act to provide the diagnostic services that were originally licensed under the Act. However, since our last audit in 1996, the Ministry has permitted already-existing licensed facilities to increase the types of services they perform if the facilities are located in a region of the province that is considered to be under-serviced. The Ministry considers a region to be under-serviced if total provided services of a particular type, including services provided in hospitals, are less than 50% of the average number of services provided per capita throughout the province.

In a 2002 report, the Ontario Medical Association (OMA) recommended that the Ministry, the OMA, and the hospital sector establish a Technical Diagnostic Services Management Committee to recommend to the Ministry province-wide, population-based planning methodology and guidelines to determine the capacity, distribution, and choice of appropriate diagnostic services. The proposed methodology was to incorporate criteria relating to: the needs of the population (taking into account factors such as disease prevalence, ease of access, age of the population, and referral patterns); waiting lists; and whether the introduction, expansion, or replacement of diagnostic technology demonstrates a cost benefit in the provision of services. The report also recommended that the committee:

- be responsible for recommending to the Ministry:
  - strategies to address diagnostic service priorities; and
  - gaps identified through the application of an approved provincial planning framework for diagnostic technology;
- review requests to introduce new services or expand existing capacity; and
- make recommendations with respect to introducing/expanding services.

We understand that while the Ministry supported establishing such a committee, to date, none has been established. We noted that the province of British Columbia has established an Advisory Committee on Diagnostic Services that reviews applications for new diagnostic facilities.

Ministry-prepared data indicated significant regional variations in the availability of services. For example, in the 2002/03 fiscal year:

- For the 62 municipalities with populations greater than 25,000, nine municipalities were under-serviced—according to the Ministry's criteria of providing less than 50% of the average number of services provided per capita throughout the province—in all four of the main diagnostic specialties (radiology, ultrasound, pulmonary function studies, and nuclear medicine), and another four municipalities were under-serviced in three specialties.
- For the 39 municipalities with populations over 50,000, diagnostic ultrasound services provided varied significantly and ranged from 81 to 659 per 1,000 people.

We found no indication that the Ministry had analyzed these differences to determine whether any action was needed to address the Ministry's commitment to providing universal access where and when services are needed.

Notwithstanding the conditions placed on increasing the *types* of diagnostic services performed, there is no limitation on the *volume* of licensed services that an individual diagnostic facility can provide. From the 1996/97 to the 2002/03 fiscal year, there had been significant increases in the utilization of certain diagnostic procedures. For example, based on our analysis of ministry data, the facility fee claims for one ultrasound technical fee procedure showed that utilization had increased from approximately 72,000 services to 159,000 services annually. At a number of facilities, utilization of this and other services had increased by over 100% and in some instances by as much as 700%. We found no indication that the Ministry had analyzed the reasons for such dramatic increases in the number of procedures at these facilities.

## Surgical/Therapeutic Services

As previously noted, facilities offering licensed surgical and therapeutic services are funded through negotiated budgets, based primarily on the number of services that the Ministry will pay a facility to perform. The Ministry has noted that, with an aging population, there is increased demand for cataract surgery and dialysis services.

### CATARACT REMOVAL SURGERIES

According to ministry data, the number of cataract surgeries performed in Ontario has steadily increased, from approximately 45,000 annually in the 1992/93 fiscal year to 97,000 in 2002/03. In 2000/01, the Ministry assessed the need for cataract removal surgeries and concluded that four regions of the province were under-serviced relative to the province as a whole. The Ministry also concluded that providing cataract surgeries in an independent health facility should be less expensive to the Ministry than providing them in a hospital. At the time of this year's audit, only one licensed facility, located in Toronto, was providing cataract surgery in Ontario. The majority of cataract surgeries in Ontario were being performed in hospitals. In 2003/04, with Management Board of Cabinet approval, the Ministry increased the number of cataract surgeries performed by the licensed facility from 300 to 1,300 annually. According to the Ministry, this brought the volume of services provided by this facility to 100% of its capacity.

Recent information on the need for cataract surgeries included the results of a September 2003 needs assessment performed by the Ministry that indicated that other regions in Ontario with large populations were providing significantly fewer cataract surgeries per capita than was Toronto—the region where the only licensed facility performing the surgeries is located. The Ministry also noted that in 2001/02, while the provincial average was 2,595 services provided per 100,000 people over 50 years of age, cataract surgeries actually provided in communities with populations over 100,000 ranged from 1,837 to 3,286 annually per 100,000 people. The Ministry estimated that an additional 9,000 annual cataract surgeries were required to address the annual increase in the number of individuals needing surgery and to address, over the next five years, the 33,000 individuals already waiting for surgery. According to a 2003 Fraser Institute Study, Ontario's median patient waiting time between meeting with a specialist and cataract surgery was 19 weeks, as compared with: Ontario physicians' indication in the report of eight weeks as a reasonable waiting time; and waiting times of 7.5 and 12 weeks, respectively, in Alberta and British Columbia, which also provide cataract removal surgeries outside of hospitals.

### OTHER SURGICAL/THERAPEUTIC SERVICES

Since our *1996 Annual Report*, the need for and availability of licensed surgical/therapeutic services other than cataract removal surgeries—such as abortions, vascular surgeries, and dialysis—has not been determined. Neither have there been regular reviews of the level of service provided (that is, the number of services provided per unit of population) throughout the province.

With respect to abortions, at the time of our audit there were five licensed independent health facilities—located in two major cities in Ontario—that were providing therapeutic abortions. According to the Ministry, certain services, such as abortions, "are not available elsewhere in the province to satisfy the current demand and volume."

We noted from a recent document prepared by the Ministry that unlicensed facilities are also performing abortions, particularly in one area of the province. Since these facilities are not licensed under the *Independent Health Facilities Act*, they are not paid a facility fee for the services they provide. However, this also means that they are not subject to the same quality assurance process as licensed facilities. We question whether excluding these facilities from the quality assurance process meets the spirit and intent of the Act and the Independent Health Facilities Program with respect to quality assurance.

#### Recommendation

**To help ensure that the services provided under the *Independent Health Facilities Act* are reasonably accessible to all Ontarians, the Ministry should:**

- **assess the need for each service by region and determine what actions are required to meet its commitment to provide services where and when needed; and**
- **assess the implications—from a financial and waiting-list perspective—of licensing more than one independent health facility to provide cataract surgeries.**

**The Ministry should also determine what legislative or other actions should be taken regarding unlicensed facilities that are performing surgical and other procedures that are generally performed in hospitals or licensed independent health facilities.**

**Ministry Response**

***The Diagnostic Services Committee (DSC) will use a planning-based approach for the diagnostic services system, including making recommendations to address access and health care needs. This will include addressing issues such as access in under-serviced areas, new approaches to meet patient needs, and capacity and wait list issues. The DSC will provide advice and recommendations on the funding and structure of the province-wide diagnostic system, including the use of new funding for diagnostic services.***

***The Ministry supports evaluating the impact of licensing additional cataract surgery centres under the*** **Independent Health Facilities Act*****. The Ministry has conducted a needs assessment to identify areas of the province in greatest need for additional cataract surgery services and is in the process of seeking approval to issue request for proposals to establish additional cataract surgery facilities under the Act.***

***The structure of the Act is such that the definition of an independent health facility and the prohibitions and penalties associated with operating an unlicensed facility all hinge on the charging of a facility fee as defined in the legislation. Facilities that forego the charging of facility fees do not require licensing under the Act and are not subject to the quality assurance provisions of the Act.***

***The imposition of the quality assurance process established under the Act on facilities performing independent health facility-type services but not licensed under the Act would require significant amendments to the Act. The Ministry supports the consideration of this issue under a policy review of the Act and the inclusion of amendments, subject to policy approval, if/when the Act is open for amendment.***

## Waiting Lists

One method of determining whether access to services may need to be addressed is through maintaining and monitoring the waiting lists for those services. At the time of this year's audit, the Ministry did not have a waiting-list system to track and manage waiting times for any of the services that are licensed under the *Independent Health Facilities Act*. In 2000, the Ministry began providing funding to the Ontario Joint Policy and Planning Committee (JPPC) to undertake the Ontario Waiting List Project. This project was to develop an understanding of how to effectively manage waiting lists and improve access to health care services. As part of its mandate with respect to the project, the JPPC was to "recommend the methodology that fairly prioritizes patients, enables timely access to services, applies across levels of care and is acceptable to key stakeholders."

The project developed and evaluated priority-rating tools that were based on work begun by the Western Canada Wait List Project (WCWL), a collaborative undertaking by medical associations, ministries of health, regional health authorities, and health research centres involving British Columbia, Alberta, Manitoba, and Saskatchewan. The WCWL developed waiting list management tools in five clinical areas. While the tools were not specifically established for independent health facilities, the JPPC reviewed the waiting list tools for MRIs, general surgeries, and cataract surgeries (as noted earlier, the Ministry has estimated the number of individuals waiting for cataract surgeries). We understand that, as a result, recommendations were made to further develop and refine each of the tools. We noted that the province of Nova Scotia has also started a provincial wait time monitoring project.

As of May 2004, we were not aware of any further initiatives undertaken by the Ministry relating to the Ontario Waiting List Project or of other approaches to obtain information on the waiting time for services provided by independent health facilities.

### Recommendation

**To help determine the severity of regional service-level fluctuations, the Ministry should:**

- **develop and implement a waiting list management system; and**
- **monitor and analyze waiting times.**

### *Ministry Response*

***As an effort to manage wait lists in Ontario, the government has committed to provide timely and appropriate access to key services, including cataract surgery, hip and knee total joint replacements, selected cancer and cardiac services, and MRIs.***

***Initial activities to address wait times, as part of Ontario's Wait Time Strategy, will include the development of a comprehensive information system so that the province has the capacity to compile, measure, and evaluate wait times in all facilities providing key services, including independent health facilities. This information will be publicly reported so that patients and their providers can make informed decisions about their options and feel certain that their needs are being addressed.***

***Thus far, the government has invested in the following initiatives to address wait times by increasing volumes in the following targeted areas:***

- ***fund nine additional MRI services, seven of them expected to be up and running by next year;***
- ***fund 9,000 additional cataract surgeries annually by 2005/06;***
- ***deliver 2,300 more hip and knee replacements annually by 2007/08; and***
- ***increase cardiac procedures by more than 36,000 annually by 2007/08.***

## Service Planning

As noted previously in this report, all services provided at licensed independent health facilities are also provided in hospitals. During our audit, we found no evidence to indicate that the Ministry had established a process or criteria for assessing whether a particular service should be provided in hospitals or in licensed facilities. For certain surgical procedures, such an assessment may indicate that providing the procedure at licensed facilities would enable hospitals to address other needs that can only be met in a hospital. The assessment could vary among different regions of the province. Regional factors that could affect the assessment would include hospital capacity (such as the availability of operating rooms in the immediate area) and the availability of trained medical practitioners to staff a licensed facility.

### Recommendation

**To help ensure that independent health facilities are being appropriately used to meet the health care needs of the public, the Ministry should implement a process for determining whether particular services should be provided by hospitals or by licensed independent health facilities.**

### *Ministry Response*

***The Ministry supports this recommendation. The introduction and/or expansion of any service, either in hospital or independent health facility, should consider the best mechanism for delivering the service for the benefit of the patient. Senior ministry officials assess the best possible options and venues for providing patient care, optimizing available human and financial resources.***

***The process for the creation of new independent health facilities requires the Minister to authorize the issuance of a request for proposals. In deciding whether to issue a request for proposals, the Minister must consider the items set out in Section 5 of the*** **Independent Health Facilities Act*****, including need and future need for the service, the extent to which the service is already available, and the projected cost and availability of public funds. The Independent Health Facilities Program currently includes an assessment and/or rationale for establishing an independent health facility-based service as opposed to a hospital-based service as part of the briefing material for the Minister. This generally includes a cost comparison between hospital-based and independent health facility-based services, an assessment of the complexity of the service, and quality assurance issues associated with providing the service in a non-hospital setting.***

## ASSESSMENTS AND INSPECTIONS

To ensure that appropriate medical standards are met, the Act provides for assessors to be appointed to assess the quality of services provided by licensed facilities. The College of Physicians and Surgeons of Ontario (College) is responsible for conducting these assessments and develops and publishes clinical practice parameters and facility standards for facilities. Assessments specifically determine whether a facility has complied with the clinical practice parameters and facility standards. For example, according to the parameters and standards, diagnostic equipment should operate properly and be properly maintained and facility staff should have the appropriate qualifications and training. In the 2003/04 fiscal year, the Ministry paid the College $1.3 million to conduct assessments and to develop and publish clinical practice parameters and standards for facilities.

In addition to quality assessors appointed by the College, inspectors may be appointed by the Ministry and the College. Ministry inspectors may inspect a facility to ensure that it complies with all of the Act's provisions and its regulations and the terms and conditions of its licence. Inspectors may also be appointed by the College to inspect a facility prior to its being licensed. Inspections may also be conducted when the Director has reasonable grounds to believe that unlicensed facilities are charging the public a facility fee for insured services.

The Ministry's expectations of the College regarding the assessment process were originally delineated in a 1992/93 Memorandum of Understanding (MOU) between the Ministry and the College. While the Ministry and the College annually agree on objectives and deliverables, there has been no updated MOU.

### The Assessment Process

The facilities to be assessed are selected by the Ministry at the beginning of each fiscal year. The Ministry bases its selection on various risk factors that identify facilities with the highest potential for problems. In our *1996 Annual Report*, we noted that assessments of the quality of services provided had not been performed on two-thirds of the facilities licensed under the Act and that only 47 of the 336 facilities whose licences had been renewed had been assessed. During our current audit, we were pleased to note that significant improvement has been made, as the Ministry was assessing over 85% of facilities at least once within the period of a licence, which is generally five years.

We also noted that when the Act was amended in 1996, it permitted unannounced assessments to be conducted. This would enable assessors to directly observe on a surprise basis the quality of the services provided and to ascertain whether procedures are being performed by qualified staff. However, as of March 2004, no unannounced assessments of facilities had been conducted.

After the College completes its assessment of a selected facility, it forwards a report to the Director of the Independent Health Facilities Program. The Director reviews the report and may request additional information on the College's recommendations or authorize College representatives to obtain a plan of corrective action from the assessed facility. Where an assessment has identified a risk to patient health and safety, the Director may suspend that facility's licence or restrict the services that the facility can provide. When the facility has provided the College with sufficient documentation to demonstrate that problems resulting in the suspension have been fixed and that the recommendations have been implemented, the College informs the Director, who may then reinstate the facility's licence or remove restrictions on the services that can be provided.

## Time Frames for Submitting Assessment Information

The Ministry has not established time frames for the College's forwarding of its completed assessment reports to the Director of the Program. In 1996, we recommended that the Ministry establish such time frames. The Ministry agreed with our recommendation at that time.

Time frames were also lacking with respect to the taking of corrective action when a facility has been assessed to be non-compliant or deficient in certain areas. In this regard, in our *1996 Annual Report* we noted that facility and College staff were required to meet within two months, or as soon as practicable, after the assessment to discuss the assessment report. These meetings have been discontinued. Instead, facilities are to forward information to the College, which provides assurance that they have taken the necessary corrective action with regard to deficiencies noted in the assessment. There is no required time frame for the forwarding of this information. We reviewed assessment reports for facilities that the Ministry had concluded had significant concerns but that were not suspended—for the period between April 1, 2000 and March 31, 2003—and found that, in most cases, the College did not receive the information on what action had been taken until four to six months after the assessment date. While the Ministry indicated to us that a four-to-six-month time frame for receiving information about action taken in response to non-life-threatening problems was reasonable, we could not determine the basis for this conclusion.

**Recommendation**

**To help ensure that the College of Physicians and Surgeons is meeting the Ministry's expectations regarding the assessment process and the development of clinical practice parameters and facility standards, the Ministry should regularly update its agreement with the College in a signed Memorandum of Understanding.**

To help provide assurance that independent health facility services comply with clinical practice parameters and facility standards, some assessments should be performed without advance notice.

To help improve the effectiveness of the assessment process, the Ministry should establish time frames for:

- the submission of assessment reports by the College of Physicians and Surgeons of Ontario to the Director of the Independent Health Facilities Program; and
- the forwarding of information from independent health facilities to the College that provides assurance that any required corrective action has been taken on a timely basis.

### *Ministry Response*

*The Ministry supports this recommendation and will ensure that its expectations of the College of Physicians and Surgeons of Ontario regarding the assessment process and the development of clinical practice parameters and facility standards are regularly updated in a signed Memorandum of Understanding (MOU).*

*Discussions have been initiated with the College of Physicians and Surgeons of Ontario to develop policies and procedures defining circumstances under which unannounced assessments will be conducted.*

*The College of Physicians and Surgeons has committed to a turnaround time under the new panel review process of within 10 business days of receipt of the report for facilities determined to be operating in a manner prejudicial to health and safety and within 72 hours for immediate health and safety risks. This will allow the Ministry to respond to health and safety issues in a more timely fashion. Details of the proposed timelines will be discussed with the College of Physicians and Surgeons of Ontario and included in the MOU.*

*Current letters to the licensee include the following time frame for response to the recommendations in the report:*

- *Where the report includes only recommendations of an administrative nature, the licensee is instructed to contact and discuss the recommendation with the College of Physicians and Surgeons of Ontario within 15 days of receipt of the report.*
- *Where the report includes more serious concerns, but they are not of a degree of severity requiring licensing action, the licensee is instructed to contact and discuss the recommendations with the College of Physicians and Surgeons of Ontario within 15 days of receipt of the report and to submit a written plan to the CPSO addressing the recommendations within 30 days of receipt of the report.*

***Although part of the template letters for response, these time frames are not presently documented in a written policy. This policy will be prepared and included in the program's policy binder.***

## Licence Suspensions and Reassessments

Under the Act, the Director may immediately suspend a facility's licence when there are reasonable grounds to believe that the facility poses a threat to any person's health or safety (as a result of, for example, a lack of qualified staff or equipment not operating properly). Generally, such action is based on the results of an assessment report from the College. As discussed in the previous section, there are no time frames for when the Director of the Program is to receive assessment reports once the assessment has been completed. During this year's audit we found that, where assessments led to the suspension of a facility's licence or to some of the services being removed from the licence, an average of approximately three months had elapsed from the date of initial assessment to the date of suspension or service removal.

We noted in our 1996 audit that the Ministry had no documented policies on following up on or reassessing facilities with unfavourable assessments. We also found then that, in over 60% of the instances where facilities were reassessed, significant problems continued to exist. During our current audit, we noted that for about 20% of the reassessments conducted since April 1, 2000, significant problems continued to be identified. Despite the reduction in the persistence of significant problems, we were concerned that the Ministry still did not have a formal policy on the appropriate action to be taken where facilities continue to have quality assurance issues. Such actions could include revoking a facility's licence.

Since 1996, the Act has permitted the Minister to make regulations prescribing circumstances under which facility owners would be required to pay for the cost of an assessment. In 1996, the Ministry indicated that this would enable it to charge for reassessments that were necessary due to problems noted in the initial assessment. However, at the time of this year's audit, facility owners were still not required to pay for reassessments. Such a requirement could provide an additional incentive for facility owners to comply with quality standards.

We also noted that the Ministry does not publicize information regarding facilities where quality assurance issues have been raised. Although facilities whose licences have been suspended or restricted due to quality assurance problems cannot bill for facility fees during the period of suspension or restriction, potential patients and physicians who refer patients to the facilities may not be aware that quality assurance issues have been identified.

## Recommendation

**To help improve the effectiveness of the process for assessing independent health facilities and to help ensure that quality standards are met, the Ministry should:**

- **have a formal policy on suspending facilities with serious quality assurance issues, especially when the same issues arise on reassessment; and**
- **consider charging facilities for reassessments.**

**To help protect the public, the Ministry should consider appropriate public disclosure of serious quality assurance problems at independent health facilities.**

### *Ministry Response*

***The Ministry supports this recommendation. The program area will develop a policy establishing circumstances under which licensing action will be taken for repeat quality assurance problems, where the deficiency, in itself, does not constitute a health and safety risk or an immediate threat to health and safety.***

***The Ministry supports that charges for reassessments be considered. The program area will develop an options paper setting out the process for implementing this change (regulation change under the*** **Independent Health Facilities Act*****) and the advantages and disadvantages of charging the licensees for costs associated with conducting reassessments under the independent health facilities quality assurance program.***

***The Ministry supports the recommendation that public disclosure of licensing action resulting from quality assessments be considered. The program area will develop an options paper on this issue. A number of issues need to be considered in the development of a system of public disclosure of quality assurance problems in independent health facilities, including the retention period for the information, the posting of proposed suspensions while under appeal, the impact of changes in ownership on posted information, the timing for the posting of information and maintenance of information, et cetera.***

***While the Provincial Auditor makes the point that perhaps disclosure of quality assurance problems would be beneficial, it is the Director of independent health facilities who regulates independent health facilities. Disclosure of such information relating to an independent health facility might require an amendment under the*** **Independent Health Facilities Act** ***and might require an amendment to the agreement between the Ministry and the College with respect to the use, collection, and disclosure of information.***

# Assessment Methodology

Assessors receive and analyze information from medical records and notes, charts, and other material relating to patient care maintained by independent health facilities. The Ministry has delegated the methodology for selecting samples of records to be reviewed at the facilities to the College of Physicians and Surgeons. To assist the assessors, the College provides them with guidelines for performing the assessments. In our *1996 Annual Report*, we recommended that, to minimize the risk of not detecting potentially serious health and safety issues, the Ministry should ensure that the sampling guidelines of the College consider the time period covered by the assessment, the volume of services provided by the facility, and the number of specialties practised at the facility. We also recommended that assessors who do not follow the guidelines document their justification. The Ministry agreed with our recommendation and indicated that it would request that the College review and refine its sampling guidelines.

During our current audit, ministry staff informed us that the College's policy for sample selection is for the assessor to review a minimum of 10 services per specialty. We reviewed a sample of completed assessment reports and found that in some cases the assessors did not select 10 items from each specialty. The reasons for not completing the minimum sample size were not documented. We also found that some assessors we contacted were having facility staff select the samples of files that would be assessed rather than selecting a random sample themselves. As a result, there is a risk that the facility will select only those files that it has ensured meet the required standards.

### Recommendation

**To help ensure effective assessment of the quality of services provided by independent health facilities, the Ministry should work with the College of Physicians and Surgeons of Ontario to ensure that:**

- **the sample of services to be assessed is sufficient to reach a conclusion and is selected from a complete listing of all services rendered to patients; and**
- **the sample is selected independently by the College or by the Ministry.**

### *Ministry Response*

***The Ministry supports this recommendation. This issue will be discussed with the College of Physicians and Surgeons of Ontario and requirements for review of files and sample selection will be included in the Memorandum of Understanding between the College and the Ministry.***

## Clarity of Assessment Conclusions

The *Independent Health Facilities Act* requires that services provided by independent health facilities conform to generally accepted quality standards. In our *1996 Annual Report*, we recommended that the Ministry work with the College of Physicians and Surgeons of Ontario to ensure assessment reports contain clear conclusions on whether clinical practice parameters and facility standards developed by the College and other experts have been met. The Ministry agreed with our recommendation and stated that it was working with the College "to help improve the quality and content of the reports." However, during this year's audit, we found that the College's reports and other communications still did not consistently state whether clinical practice parameters and facility standards had been met. Where it is unclear whether standards have been met, the Ministry needs to obtain clarification from the College, which contributes to the delays in the Ministry acting on assessment reports.

In September 2003, the Ministry established a Facility Review Panel to provide additional support to the Director of the Independent Health Facilities Program in making enforcement decisions. The panel was to advise the Director as to whether the concerns identified by assessors reflected a failure to meet minimum standards of practice and to clarify the seriousness of any deficiencies. However, at the end of our audit it was too early to assess the success of this initiative.

## Assessment Tracking Systems

The Ministry maintains an assessment database that contains information on the types of services provided by each facility, the facility's status (active or suspended), and any dates on which the Ministry and/or the College took action with regard to the problems at a facility.

In our *1996 Annual Report*, we recommended that the Ministry: take steps to verify the integrity of data in the assessment database; review the feasibility of filing all assessment information by licence number (to facilitate tracking facility information); and develop a system for tracking the completion of facility assessments. During this year's audit we noted that the Ministry was tracking assessment activity by licence number and that efforts had been made to increase data integrity. However, we noted that some data entry errors still needed to be corrected and that the Ministry was not using the database to monitor the overall timeliness of the assessment process. In addition, the Ministry's database was not ideally structured for the monitoring of overall assessment timeliness. For instance, in certain circumstances, more than one reassessment is required to resolve all of the significant deficiencies identified in the original assessment. However, because reassessments and assessments are not linked within the database, determining the time that has elapsed from the date of the first assessment to when significant assessment concerns have been satisfactorily resolved is not readily determinable.

**Recommendation**

**To help ensure that decision-makers have access to all relevant information when assessing independent health facilities, the Ministry should ensure that its management information system is structured to link all data relating to a specific facility.**

***Ministry Response***

***As noted in the report, a number of changes to the database were implemented as a result of the last audit in 1996. The current management information system meets the program's needs for data with respect to tracking quality assurance assessments under the* Independent Health Facilities Act. *The proposed changes to the system would enhance the reporting capability of the system, but the Ministry must balance the value of these enhancements against available resources to program the changes and staff resources to implement any systems changes. Other systems projects would currently take priority over changes proposed to the quality assurance management information system. Changes will be implemented if/when resources are available.***

## UNLICENSED TECHNICAL SERVICES

In our *1996 Annual Report* we noted that when the *Independent Health Facilities Act* was introduced in 1990, many OHIP insured services that had a technical component were not covered by the Act. The *Health Insurance Act*'s Schedule of Benefits contained 65 technical procedures that were not included under the *Independent Health Facilities Act*, such as electrocardiograms (recordings of the electrical activity of the heart), electroencephalograms (recordings of the electrical activity generated by neurons in the brain), and echocardiograms (electronic plottings of the echoes of sound pulses sent into the chest to map the heart). We recommended that the Ministry develop specific criteria for determining which technical services and procedures should be licensed under the *Independent Health Facilities Act*. In its response to our 1996 audit, the Ministry noted that the number of services that could theoretically be covered by the Act were so substantial that a rigorous process would be required to prioritize the areas for expanded coverage.

In 1997, a joint committee of the Ministry and the College developed criteria to be used for expanding the Act's coverage to other services that were being provided outside of hospitals that were not covered by the Act. The criteria included quality assurance criteria (for example, consideration of the risk to the patient from the performance of the service) and utilization criteria (for example, consideration of any increased costs to the government). In its *1996–97 Annual Report,* the Standing Committee on Public Accounts recommended that these criteria be used for any expansion of the technical services and procedures licensed under the Act. We understand that as a result of applying the utilization criteria, the Act was extended in 1998 to include sleep studies. However, while the joint committee had also recommended evaluating other procedures—such as echocardiography services—for inclusion under the *Independent Health Facilities Act*, we understand that no further evaluations have been conducted to determine additional services that should be included.

Various studies and reports have reinforced the importance of the Ministry's quality assurance process for technical services for ensuring the protection of the public. For instance, in a 2000 report, a joint committee of the Ministry, the Ontario Hospital Association, and the Ontario Medical Association (OMA) noted that the Act's requirement for quality assurance—mandating quality standard development, inspections, and regular assessments and providing for remedial actions—was more comprehensive than any comparable medical quality assurance requirements. That report also noted that the lack of an external quality assurance program for technical services provided in individual physicians' offices and medical clinics made the offices and clinics vulnerable to criticism for having inconsistent standards and quality. In a 2002 report, the OMA also noted that the quality management program for independent health facilities has been widely regarded as a major asset and that the challenge is to have a quality management system for technical diagnostic services that works across all sectors.

When a service not covered under the Act is performed outside a public hospital, the service is not subject to the Act's quality assurance process. Examples of such services are, as mentioned earlier, echocardiograms and electroencephalograms. Under the *Health Insurance Act*, the facilities performing these procedures are paid a technical fee. Ministry data indicate that technical fee payments for echocardiography services between the 1995/96 and the 2002/03 fiscal years increased by 53%—from $30 million to $46 million.

Other procedures may also be performed outside of hospitals without requiring that the facility be licensed, but these procedures do not have a separate technical fee—only the professional component of these procedures is paid for. Examples of such services are allergy testing and colonoscopies, which are used to diagnose colon and bowel disease. Ministry data indicate that, in the 2000/01 fiscal year, 19,260 colonoscopies—or approximately 12% of all such procedures performed in the province—were performed outside of public hospitals. Since these procedures were not covered by the Act, they were not subject to the quality assurance provisions of the Act.

We found no indication that the Ministry had analyzed, since 1997, whether any additional services that are being performed outside of hospitals and licensed facilities should be licensed under the Act and therefore be subject to the Act's quality assurance process.

**Recommendation**

**To help ensure the consistent quality of medical services in Ontario and to help minimize the risk to patients, the Ministry should assess which diagnostic and surgical services performed outside of hospitals and licensed independent health facilities should be covered by the *Independent Health Facilities Act*.**

***Ministry Response***

***Any decision to expand the Independent Health Facilities Program to include additional services must balance the cost of implementing a licensing and quality assurance program against the need for:***

- ***enhanced quality assurance of services performed in community-based settings; and***
- ***planning and utilization controls on the service achieved through the independent health facilities licensing scheme.***

***The Ministry developed criteria in 1997 to evaluate proposals for expansion of the* Independent Health Facilities Act *to include additional services. This criteria was used to evaluate the proposal to regulate sleep medicine facilities under the Act, and led to the licensing of sleep medicine facilities through changes to the Schedule of Benefits in 1998. These criteria should continue to be used to evaluate any proposals for expansion of the Act to include additional services.***

***To date, evaluation of the potential for independent health facilities expansion has only occurred in response to specific proposals from the OMA or the Ministry or to unsolicited proposals from individuals interested in establishing a facility.***

## SLEEP STUDIES

Most sleep studies are overnight procedures where a patient is observed and monitored continuously for factors such as oxygen saturation (to assess whether the patient's red blood cells are carrying sufficient oxygen through the arteries) and sleep staging (to assess sleep disorders such as apnea). In our *1996 Annual Report*, we noted that technical fee billings from facilities performing sleep study procedures, which at that time did not require a licence under the Act, had increased by 135% over a four-year period. Since then, sleep study clinics have been added to the services covered by the *Independent Health Facilities Act*. The Physician Services Committee recommended that sleep study clinics be added primarily in order to limit the number of facilities permitted to bill for performing sleep study services. In 1998, approximately 70 sleep study clinics were brought in under the Act and were allowed to operate while their licences were pending. Between the 1998/99 and 2002/03 fiscal years, sleep study technical-fee billings increased from $14.9 million to $23.4 million, representing a 57% increase.

Before a facility can become licensed, the College of Physicians and Surgeons must perform a pre-licensing inspection to determine if the facility is complying with established clinical practice parameters and facility standards. Facilities may continue to operate until the Ministry licenses them. If the College identifies serious quality assurance problems, the Director can prohibit the operator from billing for technical fees. The latter action would generally be taken only if an operator refuses to correct identified deficiencies.

We noted that quality concerns raised in the pre-licensing inspections of many sleep study clinics required more than one inspection to resolve them. On average, it took 16 months from the date of initial pre-licensing inspection to license an individual sleep study clinic. At the end of our fieldwork, 18 of the sleep study clinics that were in operation had still not been licensed because they had not yet rectified deficiencies or had not yet been inspected. Deficiencies noted in facilities that were inspected included staff not adequately monitoring patients during sleep studies.

**Recommendation**

**To help ensure that new facilities that are brought under the *Independent Health Facilities Act* in future meet quality standards, the Ministry should:**

- **inspect all such facilities on a timely basis; and**
- **follow up on problems identified on a timely basis to verify that corrective action has been taken.**

***Ministry Response***

***The Ministry supports this recommendation. To ensure that any future grandfathering situation is resolved in a timely manner, the Ministry recognizes the need to ensure that sufficient dedicated resources, both within the Independent Health Facility Program and in the College of Physicians and Surgeons of Ontario, are assigned to the inspection and licensing processes.***

## OTHER MATTER

### Magnetic Resonance Imaging

Magnetic Resonance Imaging (MRI) produces high-quality images of body structures that can be used as an extremely effective method of detecting, for example: brain abnormalities, tumours or inflammation of the spine, aneurysms or tears of the heart or aorta, problems with organs within the abdomen, and damage to the structure of joints, soft tissues, and bones. MRI scans often provide crucial information before surgery. In the summer of 2002, the provincial government announced that diagnostic services in independent health facilities would be expanded to include MRI services and that access to MRI services in Ontario was to be improved as a result, since the services had previously been available only at hospitals. Moreover, the MRI services provided at facilities were to be less expensive to the Ministry than those provided at hospitals. The facilities would be subject to all the provisions of the Act, including its quality assurance requirements.

After evaluating the bids submitted by potential suppliers, the Ministry selected operators to provide MRI services at five locations. Between July and September 2003, these facilities were licensed for the services. However, the funding for the MRI services, unlike that for other diagnostic services, was limited to the amount of each operator's bid price and was contingent on the operator providing minimum levels of insured services.

The operators can also receive income by charging patients for services not covered by the Ontario Health Insurance Plan (this is the case at all independent health facilities). However, it is important to note that the contracts with the MRI facilities limited the extent to which uninsured services could be performed, and facilities were required to report to the Ministry on the volume of uninsured services provided.

At the end of our audit, we understood that the provincial government was reviewing the future of these facilities and other options for providing MRI services.

## MINISTRY OF LABOUR

# 3.09–Employment Rights and Responsibilities Program

## BACKGROUND

The *Employment Standards Act, 2000* (Act) sets out the minimum standards of employment for wages and working conditions that employers must provide for their employees. The Act covers a wide range of employment rights including hours of work and overtime, minimum wages, pregnancy and parental leave, public holidays, vacation pay, termination notices, and severance pay. The Act applies to most employers and employees in Ontario with certain exceptions such as businesses regulated by the Government of Canada, including airlines and banks.

The Act is enforced by the Ministry of Labour's Employment Rights and Responsibilities Program (Program). The Program is delivered through the Ministry's head office in Toronto and regional and district offices throughout the province. Program services include:

- providing information and education to employers and employees, in part through a call centre operated by the Ministry of Finance;
- investigating and resolving complaints, primarily from former employees, of possible violations of employment rights;
- conducting proactive inspections of payroll records and workplace practices; and
- ordering employers to pay wages and benefits owed and initiating prosecution and collection efforts if warranted.

Employment standards officers have the power to look into possible violations of the Act. During the 2003/04 fiscal year, the Ministry investigated more than 15,000 complaints from employees and carried out approximately 150 proactive inspections.

For the 2003/04 fiscal year, the Ministry's expenditures for the Program totalled approximately $22.4 million, of which about 75% was spent on salaries and benefits for about 220 staff.

# AUDIT OBJECTIVE AND SCOPE

Our audit objective was to assess whether the Ministry had adequate systems and procedures in place to fulfill its key mandate of protecting the employment rights of workers.

Prior to the commencement of our audit, we identified the audit criteria that would be used to conclude on the audit objective. These were reviewed and accepted by senior management of the Ministry.

Our audit field work, which was substantially completed by March 2004, included a review of relevant files and administrative policies and interviews of staff at the Ministry's head office, three regional offices, and five district offices. We also researched similar programs in other jurisdictions. In addition, we followed up on the issues we raised in our 1991 audit of the Ministry's Employment Standards Program, the predecessor of the current Program.

Our audit was conducted in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

We also conducted a review of recent reports prepared by the Ministry's Internal Audit Services Branch and, where appropriate, incorporated relevant concerns into our audit work.

# OVERALL AUDIT CONCLUSIONS

We noted that the Ministry was focusing its efforts almost entirely on investigating complaints from individuals against their former employers. As a result, we concluded that the Ministry's inspection activities relating to protecting the rights of currently employed workers was inadequate. Many of the concerns identified during this audit were also reported on in our 1991 audit of the then Employment Standards Program, as the following table shows.

**1991 Audit Concerns and Their Status at the Time of Our Current Audit**

| 1991 Concern | Current Status |
|---|---|
| When an investigation of an individual complaint found that violations of minimum standards had occurred, the Ministry did not generally extend those investigations to determine whether similar violations had occurred for other employees of the same employer. | *No significant improvement.* Despite finding violations in 70% of complaints investigated, the Ministry usually did not extend investigations to cover other employees working for the same employer. Because 90% of employees who filed claims did so only after leaving their employment, expanding the scope of an investigation to cover the employer's other workers would be an important way of ensuring that the rights of these workers are being protected. |
| The Branch had virtually abandoned proactive inspections despite their effectiveness in uncovering violations. | *No significant improvement.* Efforts to resolve complaints have left officers little time for proactive inspections of employers. The need for such inspections is evident given the fact that violations were uncovered in 40% to 90% of the proactive inspections that were conducted, depending on the business sector being inspected. |
| Prosecutions had been virtually non-existent, creating little incentive for employers to voluntarily comply with the Act. | *No significant improvement.* The Ministry seldom initiated prosecutions or issued fines. We found instances where employers were not fined or required to pay administrative fees even when their violations involved large amounts. This lack of any punitive action such as a fine or prosecution could encourage some employers to ignore their legal obligations to employees. |
| Computer and communication technologies were inadequate. | *No significant improvement.* The Program relied on a mix of paper and computer information systems that were not integrated. Information useful for enforcement was not easily accessible, thus hampering the ability of officers to effectively and efficiently perform their duties. |
| The system for measuring and reporting program effectiveness was unsatisfactory. Established targets related more to staff productivity than to program effectiveness. | *No significant improvement.* The Ministry had not defined the critical aspects of the Program's performance or established adequate indicators to measure and report on program effectiveness. It communicated to the Legislature and the public only a single workload measure—the time inspectors took to complete claim files. |

*Prepared by the Office of the Provincial Auditor*

Weaknesses were also found in the collection of amounts in default owed to employee claimants by employers. The collection agencies contracted by the Ministry were expected to have a successful collection rate of 35%. However, the rate achieved was much lower, about 15%. In contrast, Alberta achieved collection rates ranging from 20% to 35% by using more stringent collection measures.

Significant control weaknesses existed over the Ministry's administration of its $11 million trust fund for employee claimants. We found examples of money collected as far back as 1995 that had not been sent to claimants, of duplicate payments being made, of numerous accounting errors, and a lack of essential reconciliation and supervisory controls.

# DETAILED AUDIT CONCLUSIONS

## *ENFORCEMENT*

The Act provides employment standards officers with the power to enter employers' premises during regular business hours in order to investigate possible contraventions of the Act. When conducting an investigation or inspection, an employment standards officer may question any person and may request and examine records or other evidence that the officer considers relevant.

The Act permits an employment standards officer to negotiate a resolution to a claim. In addition, an employment standards officer may issue an order to the employer to:

- compensate an employee for the amount owing by the employer (up to a maximum of $10,000 per employee);
- reinstate an employee who has been terminated; and
- pay a statutory administration fee of the greater of 10% or $100 on the compensation that an employer was ordered to pay.

In addition, an officer may issue a notice of contravention, which requires an employer to pay $250 for a first offence and increases to $1,000 per employee for repeat violations.

Employers can also be prosecuted and, upon conviction, ordered to pay fines of up to $50,000 and/or to serve up to 12 months in jail. Corporations can be ordered to pay fines of up to $100,000 for a first offence and up to $500,000 for repeat violations.

### Extending Investigation Activity and Proactive Inspections

The Employment Rights and Responsibilities Program has been largely complaint-driven and, for the most part, its staff have been occupied with resolving the significant number of employee complaints, almost all of which are made by individuals against their former employers. In our 1991 audit, we reported that when an investigation found violations for a specific claimant, the investigation was not generally extended to check whether the same violations had also occurred for other employees of the same employer and that the Ministry had undertaken few proactive inspections, which are non-complaint related, despite their effectiveness.

In our current audit we found the situation had not significantly improved since 1991. Extended investigations and proactive inspections still represented only a small portion of the Ministry's enforcement activities, as shown in the following table.

### Summary of Inspection Activities for Fiscal Years 1990/91 and 2000/01–2003/04

| | 1990/91 | 2000/01 | 2001/02 | 2002/03 | 2003/04 |
|---|---|---|---|---|---|
| complaints file completions | 18,582 | 13,975 | 12,457 | 15,078 | 15,771 |
| extended inspections | 1,795 | 849 | 630 | 535 | 802 |
| proactive inspections | 85 | 1,543 | 1,156 | 357 | 151 |

*Source of data: Ministry of Labour*

We noted that one or more violations were found to exist in about 70% of complaints filed. However, the majority of workplace violations are reported by former employees as current employees are generally reluctant to file claims for fear of losing their jobs, despite the protection of employee rights that exists in the Act. In fact, 90% of complaints were filed by individuals no longer working for the employers against which they filed claims. To be effective in fulfilling its mandate, the Ministry has an obligation to protect the employment rights of currently employed workers who may be reluctant to file claims.

Greater ministry emphasis on extending investigations of a substantiated claim to cover other employees of the same employer to determine whether additional violations had taken place would be an effective and efficient means of enforcing the employment standards legislation. For example, a complaint by a former employee against an employer in 2001 identified violations relating to unpaid wages, vacation pay, and termination pay. At the time, the investigation was not extended to include other employees. However, from 2001 to 2003, four subsequent investigations of complaints against the same employer determined similar violations with a total assessed amount of about $25,000 owing to those employees. We also noted that prosecutions were not initiated for any of these claims.

With respect to proactive inspections, targeted ministry inspections of high-risk business sectors have been effective in the past. These inspections uncovered violations involving unpaid wages, overtime pay, and public holidays at rates ranging from 40% to 90% of inspections, depending on the business sectors inspected. These high rates of violations indicate a need to increase proactive inspections to promote greater compliance with employment standards legislation. The above table shows that for the 2000/01 and 2001/02 fiscal years, when fewer complaints were processed, the Ministry was able to devote more staff resources to proactive inspections. However, even in those years the number of proactive inspections represented only a relatively small proportion of the estimated 300,000 employers in Ontario.

The Ministry indicated to us that it has a statutory responsibility to resolve claims and that limited resources left little time for staff to extend investigations and pursue proactive inspections. In addition, the resources needed to conduct extended investigations or proactive inspections could be significant, requiring an additional two to 14 days per employer, depending on the size of the business. During our field visits, we noted that emphasis was placed on employment standards officers completing complaint investigations within a set time period, which left little time for proactive inspection activities.

In our opinion, the Ministry needs to consider ways to better balance its inspection efforts to protect the rights of currently employed workers. More proactive inspections in higher risk industries could result in fewer complaints by employees over the longer term.

An approach that warrants consideration may be to adopt employment standards practices from Alberta and British Columbia that permit charging employers found in violation of the legislation for the costs of external audits to assess overall compliance. This in effect transfers the cost of enforcement to employers where violations are detected and frees up ministry resources to pursue other priorities such as extending inspection activities and proactive inspections. The added costs to the employer could also act as a deterrent to violations.

## Recommendation

**To more effectively enforce the *Employment Standards Act, 2000*, and better protect the rights of currently employed workers, the Ministry should:**

- **expand investigations when individual violations are found and increase the number of proactive inspections in higher risk industries; and**
- **assess the impact—both on enforcement and as a deterrent—to making employers found in violation of the Act responsible for the costs of investigations and inspections.**

### *Ministry Response*

***On an overall basis, the Ministry accepts and will act on the recommendations made by the Provincial Auditor. Our determination is to improve the effectiveness of all of our employment rights and responsibilities programs. In this regard, the Ministry announced an enhanced enforcement and awareness initiative on April 26, 2004.***

***With respect to this particular recommendation, the Ministry acknowledges that its approach to enforcement was largely reactive over the years. Such an approach does not provide sufficient deterrent to non-compliant employers, and it is not an effective tool in ensuring the collection of unpaid monies owing. Therefore, the approach and direction has been changed.***

***The emphasis is now on a proactive approach to enforcement. A dedicated inspection team was established July 1, 2004, and high-risk sectors have been identified. Over the next year, the Ministry will be conducting 2,000 proactive inspections. These inspections will be targeted to high-risk employers in high-***

***risk sectors and employers who have a history of multiple claims filed against them. The results will be measured so that program effectiveness can be constantly monitored and improved.***

***At the same time, the (reactive) complaint-handling procedure is being revamped. Where an officer investigating a claimant believes that other employees may also have entitlements, the officer will transfer this information to a targeted enforcement team for additional follow-up.***

***An increased awareness of rights and responsibilities on behalf of both employers and workers is essential to the success of the Program. With respect to employers, an outreach program has already begun with various organizations to determine ways of ensuring that employers who genuinely do not know their rights and responsibilities can learn them quickly. Many of the workers who are most vulnerable to employment standards violations are those whose first language is not English or French. Over the past several months, the Ministry has been engaged in an extensive and expanding outreach program targeted to these workers.***

***It is expected that these initiatives will have a number of results. First, they will provide a much stronger deterrent to the non-compliant employer community. Secondly, they will increase collections efficiency with respect to unpaid accounts (internal studies have shown that proactive inspections are much better at collecting unpaid monies). Finally, over the longer term, they will reduce the number of potential claims that might otherwise arise. Other work is being undertaken to make employers found in violation of the Act responsible for the costs of investigations and inspections to the extent possible.***

## Prosecuting Violators

The Act permits an employment standards officer to negotiate the resolution to a claim. We noted that most claims were in fact settled without the necessity to issue a formal order to pay and without the imposition of a fine and administrative fee. This approach to resolving complaints could be justified in certain situations such as when violations are minor and the employer has no previous violations and acts expediently to deal with employee complaints. However, if not deployed prudently, this practice could convey to employers that there is a level of tolerance for employers who do not voluntarily adhere to requirements of the Act, as there is little likelihood of a fine or penalty even if they do violate the Act. Any increased non-compliance with the Act on the part of employers also puts an additional burden on employees to initiate complaints with the Ministry to ensure their rights are respected.

Over the past five years, of approximately 70,000 claims filed, violations were substantiated in 51,000 of them—a rate of over 70%. Of the 51,000 substantiated claims, only 18 cases were sent for prosecution, resulting in a total of 63 convictions for violations of various sections of the Act and only $210,000 in fines imposed. We found that in general the Ministry did not initiate prosecution or issue fines even when large amounts were involved, including a number of examples where the amounts owed to employees was over $100,000 but no penalties or additional costs had been assessed against the employers. We noted the same weakness with regard to the use of notices of contravention, which are used to fine employers. From December 2001, when they were first introduced, to February 2004, only 218 notices of contravention were issued, resulting in assessed total penalties of approximately $140,000.

The Ministry's employment standards practices and procedures manual outlines factors and types of contraventions inspectors should consider in determining whether employers found in violation should be prosecuted. However, the Ministry's emphasis on quickly resolving claims contributed to officers' reluctance to prosecute violations and impose fines and administrative fees even in instances where the employer had a number of prior violations. For example, an employer found in violation for unpaid wages of $5,000 in July 2003 had four previous, similar violations. The inspector did not issue a notice of contravention to the employer or initiate prosecution.

In addition, the Ministry had not monitored employment standards officers to ensure that levels of enforcement were consistent and appropriate for encouraging compliance and deterring future violations.

### Recommendation

**To ensure that its enforcement efforts are effective in promoting employers' compliance with the *Employment Standards Act, 2000,* the Ministry should provide better direction to employment standards officers regarding the appropriate use of enforcement measures, including notices of contravention and prosecutions, and better monitor the use of these measures for consistency of application.**

### *Ministry Response*

***The* Employment Standards Act, 2000 *provides for significant enforcement tools, but they have not been utilized to the extent possible. This has been addressed in two ways. First of all, the announcement of an enhanced enforcement initiative in April 2004 emphasized that all of the enforcement tools under the Act are to be utilized. Secondly, effective July 1, 2004, employment standards officers have been issuing tickets to employers for violations under Part I of the* Provincial Offences Act. *These do not create new offences but are a new and more efficient means of charging offences. This will provide a much more effective means of ensuring that, where appropriate, prosecutions can be instituted. More serious offences will continue to be prosecuted under Part III of the* Provincial Offences Act, *which can result in larger fines and imprisonment.***

***The Ministry has developed and implemented a comprehensive prosecutions policy (updated July 2004) that identifies criteria for initiating and guidelines for conducting prosecutions under the* Provincial Offences Act*. To improve consistency in the application of the reviewed and revised procedures, the changes in procedures have been formalized through the* Officers' Procedures Manual *and communicated to staff through appropriate training.***

## Collecting for Claimants

When an employer fails to comply with an order to pay, the Ministry initiates collection efforts. Amounts collected are placed in a trust fund for subsequent payment to the affected current or former employees. Enforcement of payments ensures that employees obtain amounts legally owed to them, effectively promotes and enforces employment standards legislation, and deters employers from future violations.

On average, only about 40% of amounts owed by employers is voluntarily paid without the need for further collection efforts. For the amounts remaining, since 1998, up to three collection agencies have been used to collect overdue orders to pay. Default orders are sent to collection agencies approximately 30 days after payments are overdue. The collection agencies are required to return the orders to the Ministry after one year of unsuccessful collection efforts. At the time of our audit, only one collection agency was performing this service. The following table shows the amounts collected by the agencies and their collection rates over a four-year period.

**Results of Collection by Private Collection Agencies, 2000–2003**

| | 2000 | 2001 | 2002 | 2003* |
|---|---|---|---|---|
| collected amounts ($ 000) | 1,002 | 707 | 772 | 988 |
| amounts of defaulted payments sent to private collection agencies ($ 000) | 4,901 | 4,727 | 4,890 | 7,931 |
| collection rates (%) | 20.4 | 15.0 | 15.8 | 12.4 |

* Collections relating to some 2003 orders were still in progress at the conclusion of our audit and final collected amounts will be somewhat higher.

*Source of data: Ministry of Labour*

As the above table illustrates, there has been a significant decrease in collection results over the past three years. Initial forecasts used in the business case for transferring collections to private collection agencies in 1998 were based on an expected collection rate of 35%. Up until 1993, when the Ministry's centralized in-house collection unit was in place, the collection rate was 22%.

In comparison, Alberta had collection rates for defaulted orders ranging from 20% to 35% over the last five years using a combination of in-house collection efforts, stronger enforcement measures at the time an order goes into default (such as writs of enforcement registered with the courts against employers for amounts owing), and private collection agencies.

We noted a general lack of strong, timely enforcement measures by both the collection agency and the Ministry when employers did not pay. For example, employers were not reported to a credit bureau; liens and writs were either not registered against them or not acted on to seize assets; and legal action was seldom taken against the employer. Also, there were no management reports on the types of enforcement measures used or which measures were more successful.

In October 2003, the Ministry initiated an internal review of its collections function to recommend improvements to ministry procedures and to its relationship with private collection agencies. A report had not been issued at the time of our audit.

### Recommendation

**To effectively collect amounts owed to employees, the Ministry should implement more timely and vigorous enforcement measures. In addition, it should better monitor the success of those enforcement efforts.**

### *Ministry Response*

***Several steps have been taken over the past year. First, a centralized unit was established in the Central Region office to address 55% of the provincial collections workload. This office conducts quality control checks on files going to and being returned by the collection agency, conducts post-agency enforcement, and investigates insolvency to ensure that all reasonable collection and enforcement options have been exhausted prior to file closure. This initiative has been successful in recovering funds that would not have been otherwise recovered. However, much more needs to be done.***

***In addition, the changes that the Ministry implemented in April 2004 are expected to get owed monies back faster into the hands of workers and increase the efficiency of collecting unpaid accounts.***

***Changes made to the claims process will get claims to the collection process faster. By moving claims through the system efficiently, a decision can be made much earlier as to: whether to move the claim to collection; or indeed whether the claim needs to be collected. By using the other tools available for enforcement, such as director's orders to pay and related fees, fewer files will need to go to collection. This change in philosophy is being undertaken now. In addition, the Ministry is initiating development of a better model of collection. Models across the country and elsewhere are being considered in order to increase the effectiveness of the process.***

## INFORMATION SYSTEMS

The Program relies on a mix of paper and computer systems to produce management information on its enforcement activities and the results achieved. Decisions, claim orders, and investigation reports are largely paper-based and kept at district offices. Each district uses a stand-alone computer system to store caseload information and to track the status of files.

As investigations are completed, each district forwards paper copies of the completed reports to the head office, where information about the investigations is manually entered into a database on a separate computer system. The head office system produces summary statistical reports on investigation activities and results by district. These include information such as the turnaround times for claim files, investigation times, the number of employers in violation, the number of claim orders issued, and amounts assessed and recovered.

The use of approximately 30 separate district and head office computer systems is inefficient and labour-intensive and has resulted in the duplication of record-keeping and data-entry work. At the same time, the sharing of enforcement information between districts is difficult because detailed information about cases is kept in paper files in individual district offices. Even within the same district, officers indicated to us that obtaining certain information about previous or related claims is cumbersome and as result, often not pursued.

In addition to the information stored on the district and head office computer systems, other types of information are kept in different computer systems within the Ministry and are not easily accessible to officers in performing their duties. This includes information about claims appealed to the Ontario Labour Relations Board, receipts and disbursements of funds held in trust from payments made by employers, the results of prosecutions, the status of outstanding orders and collection histories, and amounts collected by collection agencies.

The Ministry was aware of these limitations and the need for a centralized computer system to better manage information and allow for more efficient work processes. At the time of our audit, the Ministry was still working on a project that was started in 1998 to develop a new, province-wide computer information system that, once completed, is expected to:

- record and facilitate all enforcement activities, such as the preparation of investigation reports and claim orders;
- provide information such as file status, identification of repeat offenders, the status of collections, and program measures; and
- improve data integrity by using edit controls and by eliminating multiple entries of information as well as improve the security of information.

However, we noted that the project had experienced significant delays since development started in 1998. As of March 31, 2004, over $1.2 million had been spent, and the Ministry estimated that another $2 million was needed to complete the project. In addition, the Ministry had not obtained the required approval from the Management Board of Cabinet for this system (approval is required for projects with expected costs of $1 million or more).

The Ministry informed us that, as of March 31, 2004, the project was placed on hold and no further expenditures or commitments would be authorized until the proper approvals were obtained.

### Recommendation

**To ensure that staff and management of the Ministry's Employment Rights and Responsibilities Program have access to accurate, relevant, and timely information for decision-making, the Ministry should:**

- **obtain the required approvals for the development of its new computer system from the Management Board of Cabinet; and**
- **expedite the development of the new system to meet the needs of all users.**

### *Ministry Response*

***The Ministry recognizes the need for enhanced information technology (IT) infrastructure to support the program. A process-mapping and re-engineering exercise to streamline and improve efficiencies within the program is currently underway. Once this exercise is completed, the Ministry will determine the type of IT infrastructure required to support the revised operating practices and will seek the necessary approvals at that time.***

***It is important to make sure that the IT support is relevant to and fulfills the needs of the revamped program. We must complete the revamping before developing an IT system in order to ensure that we have one that is "fit for the purpose."***

## *QUALITY ASSURANCE*

An employment standards officer is required to complete an investigation report for each complaint that the officer completes. A copy of the investigation report is to be submitted to head office so that information from the report can be entered into the head office database.

In mid-2003, the Ministry introduced quality assurance reviews of investigation reports for each district office. The new initiative requires that each year 5% of all investigation reports completed by each employment standards officer be reviewed by the region's program co-ordinator. All regions we visited had initiated these reviews, but the results had not yet been summarized.

We reviewed a sample of investigation reports at district offices and found that the reasons for officers' decisions were generally well documented. However, for much of the other required information the reports were not complete in more than 50% of the cases we reviewed. We found examples of reports that were missing information on order number and date, the date of voluntary payment, and the reasons why no collection was made.

We also found some of the data that should have been in the head office database were missing and that other data were wrong due to data-processing errors. This resulted in incomplete and inaccurate management reports. At the time of our audit, quality assurance reviews did not include verification of the completeness or accuracy of the investigation information stored in either local or head office databases.

### Recommendation

**To ensure that the quality of information pertaining to claims made under the *Employment Standards Act, 2000,* is adequate for enforcement and for management decision-making, the Ministry should:**

- **improve its documentation of claims and investigations to ensure the completeness and accuracy of information; and**
- **expand quality assurance procedures to include verifying that information contained in ministry databases is also complete and accurate.**

### *Ministry Response*

***The Ministry agrees with the Auditor's recommendation. Program staff developed and implemented a quality assurance audit for claims investigation files in 2003/04, which covered such areas as the quality and completeness of documentation and adherence to legislation and policy. Results of the Program's 2003/04 internal audits indicate deficiencies in the completion of the investigation report, failure to consistently comply with program policy, and evidence of incomplete core documentation. The Ministry is taking steps to address the deficiencies and improve the quality assurance audit. We will emphasize to staff the importance of completely documenting claims and investigations as well as ensuring the information being entered into the ministry database is accurate.***

# MEASUREMENT OF AND REPORTING ON PROGRAM EFFECTIVENESS

The mandate of the Employment Rights and Responsibilities Program is to protect the rights of workers as set out in the *Employment Standards Act, 2000*. The Ministry is required to provide to the Management Board of Cabinet an annual, results-based business plan that outlines program plans for the coming year and reports on program performance from the previous year. Such reporting is intended to inform legislators and the public about the extent to which programs and services are providing value to the public. It serves not only as a vehicle to focus attention on results and drive change but also as a mechanism for openness and accountability.

We assessed whether or not the Ministry had adequate systems and procedures in place to measure and report on the Program's effectiveness. The criteria that we agreed to with the Ministry for the purpose of assessment encompassed a set of performance-reporting principles developed by the CCAF–FCVI Inc. (formerly the Canadian Comprehensive Auditing Foundation–La fondation canadienne pour la vérification integrée), a national, non-profit research and educational foundation, working in consultation with legislators, government officials, and legislative auditors across Canada. These principles include:

- focusing on the few critical aspects of performance;
- looking forward as well as back;
- explaining key risk and capacity considerations and other factors critical to performance;
- integrating financial and non-financial information;
- providing comparative information;
- presenting credible information, fairly interpreted; and
- disclosing the basis for reporting.

We concluded that the Ministry did not have adequate performance-reporting systems or procedures in place for the Program that met the CCAF–FCVI Inc. principles. For instance, the Ministry had not defined the critical aspects of performance nor had it explained the Program's key risk and capacity considerations. At the time of our audit, it reported on only one measure—the percentage of cases closed within 60 days. In doing so, the Ministry focused on reducing processing time as a priority in order to enhance client service. While this was a valid measure, in itself, it was insufficient to inform the Legislature and the public of the Program's success in contributing to the protection of employment rights for workers.

The Ministry advised us that its 2004/05 results-based plan would implement effectiveness measures. However, the plan had only two additional measures: the percentage of non-compliant workplaces found and the satisfaction rate of employee claimants with the resolution of their claims. More comprehensive and appropriate performance indicators are needed to inform the Legislature and the public of the success of the Program.

We identified additional areas that the Ministry could measure and report on to better inform and help the Legislature and the public understand factors that influence the success of the Program, including:

- the most commonly found violations, such as unpaid statutory holidays, vacations, and severance pay, and the number and extent of these violations by business sector as well as the underlying reasons for any high rates of violation;
- employment standards officers' efforts to target high-risk businesses and extend their investigations beyond complaints and the success of those efforts; and
- the enforcement measures (orders to pay, notices of contravention, prosecutions, and so on) available, their rates of use, and the success of those measures in gaining compliance.

Some of the above information, for example, the results of enforcement, is already available and could be made public in the Ministry's results-based plan.

Results-based performance measures and targets can also be invaluable to management in directing resources to industries and areas presenting the greatest risk to employees.

### Recommendation

**To help ensure the openness and accountability of the Employment Rights and Responsibilities Program and to assist management in making decisions affecting program direction and resource allocation, the Ministry should develop and implement more comprehensive indicators to measure and report on the Program's effectiveness.**

### *Ministry Response*

***The Operations Division has established a clear set of targets and has developed a program to monitor the achievement of those targets. The Ministry has developed a risk-based approach to targeted inspections to be able to maximize the impact of its investigation resources.***

***The measures recommended by the Provincial Auditor are being considered, and new program measures being implemented in 2004/05 include tracking:***

- ***the percentage of workplaces found non-compliant to employment standards legislation from ministry inspection activities;***
- ***customer satisfaction with the employment standards program; and***
- ***the achievement of officers in rendering decisions on 80% of the claims within 90 days.***

# FINANCIAL CONTROLS

## Trust Fund

As of March 31, 2004, the Ministry administered a trust fund with approximately $11 million in assets and over 1,000 active trust accounts. Over half of the money in the fund represents employer payments held in trust for employees terminated with recall rights. Recall rights permit former employees to return to their workplace within a specified time period if employment becomes available. The money in the fund is payable to the employees if the recall is not exercised within the specified time period. Other funds are held in trust awaiting the results of employers' appeals of the orders against them. The remaining funds are made up of amounts collected from employers for claimants. During 2003, ministry staff processed approximately 2,000 deposits from employers averaging $7,000 per deposit and made about 3,000 payments to employees averaging $3,000 per payment.

Our examination revealed serious internal control weaknesses in the administration of the trust fund. These weaknesses included the lack of a monthly reconciliation of the ministry's accounting records with its bank accounts to ensure all receipts and payments are properly accounted for and a lack of supervisory review of the work of staff. We also found serious errors and omissions in the accounting for the fund and significant delays in payments or non-payment of funds to employee claimants, as illustrated by the following examples:

- We identified discrepancies ranging from $2,000 to $150,000 due to the lack of a monthly reconciliation of the Ministry's accounting records with its bank accounts.
- The Ministry could not pay money totalling $27,000 plus interest that it received on behalf of two employees in 1995 and 1996 because it had no information on when their recall rights expired. The Ministry had made no attempt to follow up even though payments had been made approximately four years ago to other employees of the same company. In three other instances, the Ministry had deposits from employers totalling approximately $140,000 that could not be paid out because the Ministry could not locate supporting documentation to determine whether it was owing to the employees or refundable to the employer.
- We found many instances of delays in paying claimants, in some cases as long as three years. In one case, the Ministry paid $16,200 in January 2004 to an individual even though the former employee's recall rights had expired three years earlier, and in another case, the Ministry paid $8,400 to an individual in March 2004 although the funds were collected in June 2002. In both cases, action was taken as a result of our bringing these instances to the Ministry's attention.
- In another instance, payments totalling approximately $44,000 were made to seven individuals, even though the payment from the employer was to have been for six

employees. The Ministry could not explain why the number of employees had increased to seven. In addition, the amount paid out included administration fees that should have been kept by the Ministry. We also found instances where the Ministry had failed to collect the required administrative fees.

- We found that an active account with a negative balance was the result of duplicate cheques totalling approximately $15,000 dating back to 1998 and 1999 that had been issued to three claimants. We noted that prior attempts by the Ministry to recover these amounts were made without success. Once we brought this matter to the Ministry's attention, the Ministry initiated further action and recovered these amounts.

Since 1999, the Ministry had transferred approximately $2.1 million to the government's Consolidated Revenue Fund. About half of this amount was from the trust fund as a result of unclaimed wages—for example, payments to employees that were undelivered or cheques that had become stale-dated—and the remaining half was from similarly unclaimed amounts owed to employees from the former Employee Wage Protection Program, which ended in 1997. The Ministry had not tried to locate the employees through, for example, checking address changes from driver's licence records or using local telephone directories. Long delays of up to several years can occur between the date an employee initiates a claim and the date that funds become available, increasing the likelihood that employees have moved. We believe that the Ministry should make a greater effort to locate claimants prior to transferring trust funds to the government.

### Recommendation

**To ensure employee claimants receive the money they are entitled to under the *Employment Standards Act, 2000* on a timely basis and to adequately safeguard assets held in trust, the Ministry should:**

- **review all the trust fund accounts for errors and omissions and, where warranted, take necessary corrective action;**
- **improve controls over the administration of the trust fund and monitor the use of these controls on an ongoing basis;**
- **establish improved procedures for locating and paying claimants; and**
- **involve internal audit in ensuring that discrepancies and completion of the required reconciliations are appropriately investigated and resolved.**

### *Ministry Response*

***The Ministry agrees with the Provincial Auditor's recommendation and is taking concrete, immediate action to address the Auditor's concerns and ensure that effective accounting processes and financial controls are put in place.***

*The Ministry has undertaken an action plan, to be completed within a short time frame, to ensure better collection of claimant information and to allow for process enhancements, improved reconciliation and financial control, and better administration of undisbursed funds. For example:*

- *The Ministry has updated the policy and procedures manual for trust fund controllership and is implementing enhancements to existing financial controls beyond reports generated by the bank (for example, reconciliation of deposits and disbursements and bank fee verifications by the Ministry).*
- *Separation of duties (dealing with, for example, receipts, disbursements, and data entry) will be undertaken where required to achieve financial integrity and control.*
- *The Ministry is working with the Ministry of Finance to develop a policy for undisbursed funds, emphasizing the degree of diligence required to locate the individual payees before any transfer to the Consolidated Revenue Fund can be authorized. Enhanced measures for locating claimants have been initiated, including requesting additional contact information on claim forms and using search methods to reach employee claimants on the existing list where contact has been lost.*

*It should be noted that, where claimants fail to provide updated address information and entitlements flow to the Employment Standards Unclaimed Wages Account and ultimately to the Consolidated Revenue Fund, the entitlements continue to remain available to the beneficiary regardless of whether they are maintained within the trust account or transferred to the Consolidated Revenue Fund.*

## MINISTRY OF LABOUR

# 3.10–Occupational Health and Safety Program

## BACKGROUND

The Ministry's Occupational Health and Safety Program (Program) sets, communicates, and enforces laws aimed at reducing or eliminating workplace fatalities, injuries, and illnesses. The Program operates under the authority of the *Occupational Health and Safety Act* (Act) and related regulations. The legislation covers most workplaces in Ontario. Workplaces not covered include farming operations and those under federal jurisdiction. The Ministry estimates that about 300,000 workplaces and 4.6 million workers are covered by the Act.

The Act sets out the rights and duties of all workplace parties (employers, supervisors, and workers). It establishes procedures for dealing with workplace hazards and provides for enforcement of the law where compliance has not been achieved voluntarily. The Act is based on a philosophy known as the "internal responsibility system," whereby workplace parties are deemed to be in the best position to identify health and safety problems and to develop solutions. Provisions of the Act aimed at fostering an adequate internal responsibility system include requirements for employers to have a health and safety policy and program and for large employers to establish a joint health and safety committee with management and worker representatives.

The Program is delivered through the Ministry's head office, four regional offices, and 26 district offices. For the 2003/04 fiscal year, Program expenditures totalled approximately $52 million, of which approximately 75% was in salaries and benefits. The Ministry has a Memorandum of Understanding with the Workplace Safety and Insurance Board (WSIB) that calls for the WSIB to assume the costs associated with administering the Act. For the 2003/04 fiscal year, the WSIB reimbursed costs totalling approximately $43 million. The following table shows the number of workplace fatalities and lost-time injuries for the past five years.

**Workplace Fatalities and Lost-time Injuries, 1999–2003**

| | 1999 | 2000 | 2001 | 2002 | 2003 |
|---|---|---|---|---|---|
| number of fatalities | 62 | 68 | 72 | 62 | 73 |
| lost-time injuries per 100 workers per year | 1.8 | 1.8 | 1.7 | 1.6 | n/a |

*Source of data: Ministry of Labour*

# AUDIT OBJECTIVE AND SCOPE

Our audit objective for the Occupational Health and Safety Program was to assess whether the Ministry had adequate systems and procedures in place to fulfill its key mandate of enforcing occupational health and safety legislation to reduce workplace injuries, fatalities, and illnesses.

Prior to the commencement of our audit, we identified the audit criteria that would be used to conclude on our audit objective. These were reviewed and accepted by senior management of the Ministry.

Our audit work, which was substantially completed by March 2004, included a review of relevant files and administrative policies and interviews of staff at the Ministry's head office, three regional offices, and 12 district offices. At the district offices, we accompanied ministry inspectors on a number of visits to workplaces in the industrial, construction, and mining sectors to better familiarize ourselves with their activities. We also researched similar programs in other jurisdictions. In addition, we followed up on the recommendations we made in our 1996 audit of the Program.

Our audit was conducted in accordance with standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

We also reviewed the work performed by the Ministry's Internal Audit Services Branch. The Branch had conducted an audit of the Program in 2001. We reviewed the audit report and adjusted the scope and extent of our work where possible to rely on their work.

# OVERALL AUDIT CONCLUSIONS

We concluded that the Ministry's systems and procedures for enforcing occupational health and safety legislation to reduce workplace injuries, fatalities, and illnesses had improved in some areas since our last audit of the Program in 1996. Specifically, it has developed an overall framework to improve priority setting and to better co-ordinate the delivery of occupational health and safety programs and services with the WSIB and other health and safety organizations. The Ministry has also increased the level of enforcement activities by redirecting resources towards more field inspections.

Notwithstanding that some progress has been made, we identified a number of areas where improvements are required if the Ministry is to be fully effective in fulfilling its key mandate of reducing workplace injuries, fatalities, and illnesses. In particular, the Ministry needs to ensure that strong enforcement action is taken when serious safety concerns are identified and make sure that corrective action is taken; and the Ministry must take more aggressive action to prosecute repeat violators and employers who repeatedly fail to comply with ministry compliance orders. In addition, the Ministry needs better monitoring of the quality of inspection work and the related documentation.

Our specific findings are as follows:

- The Ministry's inventory of workplaces that are potential candidates for inspection was incomplete. This inventory (a computerized database) is built from employer registrations as well as from previous inspections and investigations. However, there is no requirement for workplaces in the industrial sector to register with the Ministry. Even in the sectors where workplaces are required to register, a substantial number fail to do so. For example, in December 2003 a 45-day inspection blitz of construction projects in the greater Toronto area identified more than 90 large projects that had not been registered with the Ministry as required and therefore would not show up as inspection candidates on the Ministry's system.
- The number of compliance orders issued per inspector ranged from fewer than 100 to more than 500 per year. However, the Ministry had not investigated the reasons for such large variances to ensure that inspections and the issuing of orders were being done on a consistent basis throughout the province.
- The Ministry's information systems reported the number of outstanding orders where the employer had not taken the required corrective action to be approximately 7% of all orders issued. However, over 30% of the inspection and investigation files we examined did not have the required Notice of Compliance filed by the employer or evidence of re-inspection by the Ministry, even though the computer system indicated that the orders had been complied with. As a result, we questioned if the Ministry had reliable information on whether corrective action had actually been taken on the orders issued.
- We noted many cases where prosecutions were not used to deter repeat violators, or those with serious safety violations. The ability of inspectors to use prosecutions to act as a deterrent to help reduce workplace injuries, fatalities, and illnesses was made evident by the December 2003 inspection blitz of construction projects mentioned earlier. Using a zero-tolerance approach that required inspectors to

prosecute employers for high-risk safety violations, inspectors issued nearly 50% more tickets and summonses during the 45-day blitz in the greater Toronto area than had been issued during the entire previous year for all construction projects across Ontario.

- Inconsistencies in inspectors' reports of their activities made comparisons of their workloads difficult and also pointed to the need for better monitoring of the use of inspection resources. As well, we found that inspection records were often incomplete, inaccurate, and could not effectively support enforcement efforts.
- To enhance its performance reporting, the Ministry needs to measure and report on its own performance in reducing workplace injuries, fatalities, and illnesses in those areas that it can control and be accountable for.

Subsequent to our audit fieldwork, on July 8, 2004 the government announced the hiring of 200 additional enforcement staff over the next two years, including 100 new health and safety inspectors this year, to target workplaces with poor health and safety records. Its goal is to reduce workplace injuries by 20% in four years; this is expected to result in approximately 20,000 fewer lost-time injuries and 40,000 fewer non-lost-time injuries per year.

# DETAILED AUDIT OBSERVATIONS

## *CO-ORDINATION WITH HEALTH AND SAFETY ORGANIZATIONS*

In addition to this Program, a number of other organizations are involved in the delivery of programs and services related to improving occupational health and safety. These include the Workplace Safety and Insurance Board (WSIB) and 14 health and safety delivery organizations, which are funded primarily by the WSIB. The WSIB oversees Ontario's workplace safety education and training system, and provides compensation and rehabilitation services to injured workers. The health and safety delivery organizations, which comprise members from industry groups, are responsible for promoting the prevention of accidents and occupational illnesses by providing consultation and training to workers, managers, and employers.

In our 1996 audit, we recommended better co-ordination of workplace health and safety activities between the Ministry and these other organizations to avoid duplication and inefficient use of resources—for example, in the provision of training for workplace parties and the sharing of WSIB information with the Ministry.

The Ministry, in conjunction with the efforts of the WSIB and other health and safety organizations, has since developed an overall framework—through joint membership in the Occupational Health and Safety Council of Ontario—aimed at improving priority setting and co-ordination. These efforts have resulted in better-defined responsibilities in that the Ministry is responsible for developing, communicating, and enforcing standards; and the WSIB, along with its health and safety delivery organizations, is responsible for the prevention of injuries and for the promotion of good and safe health practices.

Another significant improvement since our last audit has been in the WSIB's sharing of information with the Ministry, which allows the Ministry to target its inspection efforts towards employers with a history of more frequent worker injuries.

## *ENFORCING THE ACT AND REGULATIONS*

### Overview

Ministry inspectors have broad powers, among other things, to inspect any workplace; to conduct investigations in response to accidents, work refusals, or health and safety complaints; to order compliance with the Act and regulations; and to initiate prosecutions. In addition, the Act requires that employers report to the Ministry all cases where a person is killed or critically injured from any cause at a workplace so that the Ministry can conduct an investigation.

Where there are contraventions of the Act or the regulations, the inspectors may issue written orders requiring the employers to comply with the law within a certain time period. If the contraventions in question are dangerous to workers' health or safety, the inspectors may also issue stop orders, which require that the work be stopped until the contraventions have been corrected. The Ministry may also prosecute any person or corporation for failing to comply with such orders or for serious contraventions, particularly those resulting in critical injuries or fatalities.

The Ministry had about 230 inspectors, each of whom was designated to a business sector (primarily the industrial, construction, and mining sectors). In the 2003/04 fiscal year, ministry inspectors carried out about 56,000 field visits: two-thirds of those visits pertained to inspections, and the remaining one-third pertained to investigations.

We noted that the Ministry's enforcement activities have increased significantly since our last audit in 1996, as illustrated in the following table.

**Summary of Enforcement Activities**
**for Fiscal Years 1995/96 and 2001–2003/04**

| | 1995/96 | 2001/02 | 2002/03 | 2003/04 |
|---|---|---|---|---|
| field visits for inspections | 28,700 | 37,300 | 35,700 | 36,900 |
| field visits for investigations | 12,400 | 16,600 | 14,800 | 17,300 |
| orders issued | 36,300 | 75,200 | 72,600 | 77,800 |

*Source of data: Ministry of Labour*

The Ministry indicated that it was able to increase the level of enforcement through redirecting its resources from other areas, such as consultations, towards more field inspections and investigations.

## Identifying Workplaces for Inspection

The Ministry's province-wide computerized Merged Information System (MIS) provides information to help inspectors plan work and track their visits, including the types of business, their locations, the results of previous field visits, and orders issued. The MIS database contains information obtained primarily through previous inspections and investigations, as well as the registrations required to be submitted by certain construction and mining sector operations. For example, construction contractors with projects valued at over $50,000 are required to file a Notice of Project form with the Ministry identifying the owner, the general contractor, the type of construction, the number of workers, and the project's duration and value.

To help them choose which workplaces to inspect, the Ministry's inspectors rely on the MIS database, on previous inspection reports, and on a list of employers who have reported lost-time injuries to the WSIB. However, we noted that the MIS database was incomplete due to the following reasons:

- Not all workplaces are required to register with the Ministry. For example, there was no requirement for any workplaces in the industrial sector to be registered with the Ministry.
- The WSIB list includes only employers who have registered to pay WSIB premiums. Our discussions with the WSIB indicated that it devoted significant resources to identifying employers who did not register, particularly small and medium-sized employers, as they were perceived to pose a higher risk of non-compliance.
- The Ministry had not ensured that construction contractors filed the required Notice of Project for construction projects valued at $50,000 or more. In December 2003, following a serious accident in a Toronto construction project, the Ministry initiated an inspection blitz of construction projects in the greater Toronto area. During the 45-day blitz, inspectors used information obtained from municipal building permits to identify more than 90 construction projects that had not filed the required Notice of Project.
- The Ministry also did not require construction contractors to identify their subcontractors when filing a Notice of Project, even though one of the Act's regulations requires that a list of subcontractors be maintained at the construction site's office. Without this information at the Ministry's office, inspectors cannot target high-risk subcontractors, such as those with a high incidence of WSIB claims, for inspection.

Our audit indicated that several districts have arranged to obtain information from alternative sources to help ensure that all workplaces are identified for inspection. For example, one district periodically contacted the Ministry of Natural Resources to access their records on the location of open-pit mines, and two other districts had arranged with municipalities for access to municipal building permits to help identify unregistered construction projects. However, none of the three districts we visited in the greater Toronto area had adopted the practice of accessing municipal building permits.

With respect to the WSIB list of employers with lost-time injuries, inspectors indicated to us that more information was needed to better identify and assess risks at workplaces. Examples included the size of the workforce, where in the workplace the injuries occurred, and whether the employer has workplaces in multiple locations (because if safety violations occurred at the workplace where the lost-time injury was experienced, that employer's other workplaces may present similar risks and should therefore be inspected as well). At the completion of our audit, the Ministry was in the process of negotiating on-line access to WSIB databases, which would allow inspectors to better target high-risk workplaces and research the worksite details before a visit.

### Recommendation

**To help ensure that all workplaces are identified for possible inspection, the Ministry should:**

- **consider adopting the practices of some districts, such as using municipal building permits to identify unregistered workplaces, on a province-wide basis;**
- **develop ways to maintain a more complete inventory of workplaces that are candidates for inspection, including, where possible, establishing formal arrangements with other organizations to obtain information useful to inspectors for planning their inspections; and**
- **enhance monitoring practices to ensure that construction contractors submit Notices of Project as required and that the required information about subcontractors working on the project is provided.**

### *Ministry Response*

***On an overall basis, the Ministry acknowledges the finding of the Provincial Auditor that improvements have been made to the delivery of its Occupational Health and Safety Program since the Provincial Auditor's*** **1996 Annual Report*****. The Ministry also accepts the Auditor's observations that further improvements are required in the areas of stronger enforcement and quality control and assurance.***

***As noted by the Provincial Auditor, the Ministry announced plans to reduce workplace injuries by 20% by the end of four years through a comprehensive,***

*integrated health and safety strategy spearheaded by aggressive enforcement measures. The strategy also includes providing workplaces with easier access to health and safety information through a workplace gateway, ensuring Ontario's health and safety regulations are current and engaging stakeholders in sector-based "Action Groups" to help prevent workplace illnesses and injuries. The Ministry has already begun work to implement many of the specific recommendations linked to the detailed audit observations in the context of this broader strategy.*

*Such a large-scale change underscores the need for improved targeting and closer monitoring to ensure that the first re-investment in enforcement resources in some time achieves the intended outcomes for Ontario's workplaces and the fiscal sustainability of the Workplace Safety and Insurance Board (WSIB).*

*With respect to this particular recommendation, the Ministry is taking action to improve access to information needed to identify workplaces for possible inspection.*

*In May 2004, the Ministry finalized an information-sharing agreement with the WSIB. Using data from the WSIB, high-risk firms were identified based upon the cost of their lost-time injuries since January 1, 2000. The analysis of the data identified 6,000 high-risk workplaces where workers were injured more often, where compensation costs were higher, and where injuries were more costly when compared with other firms in their sector.*

*The Ministry is working with five other regulatory ministries to improve the effectiveness of inspections, investigations, and enforcement across government. This includes work to improve the sharing of intelligence about non-compliant workplaces to enable better targeting of inspections and collaboration with the Ministry of Municipal Affairs on an electronic building permit (e-permit) initiative. E-permitting would enable construction companies to apply electronically through one window for all needed permits, including building permits. It would also give inspectors access to building permit information and eventually replace the Ministry's Notice of Project system. In the interim, the Ministry will increase enforcement of notification requirements to ensure that construction contractors submit Notices of Project as required and that the required information about subcontractors working on the project is provided.*

## Prioritizing Inspections

The majority of an inspector's time is spent on conducting inspections of workplaces to identify potential health and safety concerns. To help allocate its resources to high-risk workplaces, the Ministry prepares an annual sector plan that provides overall information on each business sector and summarizes major hazards and key concerns. Also, a priority list of workplaces that are considered high risk based on MIS and WSIB data is provided to inspectors, who are required to conduct at least 70% of their inspections on workplaces selected from this list. The remaining inspections are to be conducted on workplaces that inspectors select based on their own judgment and on familiarity with their assigned areas.

We noted that the Ministry did not monitor the inspections that were carried out to ensure that at least 70% involved workplaces selected from the priority list and that the remainder also appropriately targeted high-risk workplaces. Inspectors did not have to provide such information in their inspection reports or input it into the MIS to facilitate monitoring by management. Although we were advised that district managers could require inspectors to provide them with lists of workplaces chosen for inspection, the practices followed were inconsistent and few records were kept of the results of any such monitoring for follow-up and future reference. In a November 2001 report to ministry management, the Ministry's internal auditors also reported on this issue. However, the matter had not been corrected at the time of our audit.

We also noted that inspections were conducted during routine business hours, generally between 8:00 a.m. and 5:30 p.m. No inspection resources were targeted to evenings and weekends to cover businesses that operate during these hours (for example, factories that operate on shifts, and transportation and construction activities that take place during evenings and weekends). The risk of workplace injuries occurring might be higher on evenings and weekends for some businesses, because more part-time workers, who tend to be less experienced with safe workplace practices, might be employed during that time and supervisory oversight might not be as prevalent.

### Recommendation

**To help ensure that high-risk employers are inspected, the Ministry should:**

- **establish a more formal process for monitoring whether the required inspections of high-risk workplaces are being carried out; and**
- **assess the need for allocating a portion of inspector resources for targeting inspections during evenings and weekends.**

#### *Ministry Response*

***The Ministry agrees with this recommendation and, as noted earlier, is implementing a strategy to reduce workplace injuries by increasing inspectorate resources and targeting high-risk workplaces for inspections. A dedicated management structure and processes have been put in place to ensure that the required inspections of the high-risk workplaces are taking place and appropriate enforcement action is taken.***

***Extended workplace inspection coverage is already taking place during evenings and weekends in some districts.***

***A pilot project to extend workplace inspection coverage in the construction sector began in mid-June 2004 and will extend to September 30, 2004. On a volunteer basis, inspectors varied their hours of work, including evening and some weekend work (primarily Saturday). At the end of this pilot project, the results will be evaluated to determine next steps. The Ministry points out that the advertisements for the current recruitment of 100 new inspectors include the possibility that inspectors may be required to work extended weekday hours and on weekends.***

## Advancing the Internal Responsibility System

Provisions of the Act aimed at fostering the internal responsibility system include requiring that most workplaces with 20 or more workers have a joint health and safety committee with both management and worker representatives. For smaller workplaces, the Act requires that a health and safety representative for workers be appointed. The main purpose of the committees and of the health and safety representatives is to identify and evaluate workplace hazards and to make recommendations to the employer regarding health and safety concerns so that they are addressed in a timely manner.

When conducting workplace inspections, the Ministry's inspectors are to ensure that the internal responsibility system is in place and working effectively. However, for most districts we visited, the inspectors' reports often did not specifically address this important area by covering such legislative requirements as:

- whether there was a joint health and safety committee and the frequency of its meetings;
- whether the committee carried out regular inspections;
- committee members' involvement in developing health and safety policies and procedures, in accident investigations, and in worker training; and
- whether the employer had taken action on any recommendations made by the committee to address hazards (since any unresolved problems might warrant the inspector's follow-up with the employer).

We also noted that where Ministry inspectors issued orders to correct hazards, those orders rarely addressed whether the joint health and safety committee had originally detected the deficiencies, and if they had, why they weren't corrected or recommendations made to prevent future recurrences and to improve the effectiveness of the internal responsibility system.

**Recommendation**

**To help enhance workplace safety, the Ministry should require that its inspectors address whether an effective internal responsibility system is in place at each workplace inspected or investigated, and whether it appears to be operating effectively.**

*Ministry Response*

***The internal responsibility system (IRS) is a central feature of the* Occupational Health and Safety Act*, but the IRS is not specifically defined in the legislation. It is important to note that the core foundation of the IRS is the role and direct responsibility of the employer, supervisor, and worker to ensure safety in the workplace. Numerous orders to the employer, supervisors, or workers arising from an inspection at a workplace would be indicative of a poorly functioning IRS.***

***The joint health and safety committees in workplaces play an important contributory role by monitoring health and safety performance and the effectiveness of the IRS within the workplace, making recommendations for improvement and providing a mechanism for worker participation. Discussions are underway with key stakeholders through three health and safety "action groups" on ways to reduce workplace injuries and illnesses. One area of discussion has been problems with and ways to improve the role and functioning of joint health and safety committees in workplaces.***

***The Ministry's Policy and Procedures Manual requires inspectors to promote the IRS, hold the parties accountable through the issuance of appropriate orders, and include a summary of their discussions and interactions in the inspection report. The Ministry will ensure that these standards are re-communicated to all inspectors and that compliance with them is monitored.***

## Issuing and Monitoring Compliance with Orders

Ministry policy requires an inspector to issue a written order to an owner, constructor, employer, supervisor, or worker for each contravention observed during an inspection or investigation. Such orders may be appealed within 30 days. Employers are required to submit a Notice of Compliance form once the contravention is corrected. Depending on the severity of the violation, the inspector may cancel the order based on a follow-up inspection, a phone call to the employer or worker representative, or the receipt of a Notice of Compliance. If no response from the employer is received by the compliance date, the inspector is required to conduct a follow-up inspection. The follow-up inspection could result in additional orders and/or in prosecution.

We found a lack of consistent application of ministry policy among inspectors across the province in the issuing of orders. The number of orders issued ranged from fewer than

100 to more than 500 per inspector per year. While a certain amount of variance can be expected—for example, an inspector who is conducting a large, complex investigation will have less time available to conduct other inspections and investigations—the Ministry had not assessed the reasons for such a wide variation. Ministry staff indicated that reasons for the variance in issuing orders might include inspectors' not properly identifying contraventions and the practice of some inspectors of giving out verbal warnings instead of issuing orders.

In our 1996 audit, we noted that a significant number of orders remained outstanding for long periods and that over 15% of the files we sampled showed no evidence that employers had submitted Notice of Compliance forms or that other verification of compliance with orders issued, such as follow-up inspection, had been done. At the time of our current audit, the Merged Information System (MIS) reported the number of outstanding orders to be approximately 7% of all orders issued over the previous 12 months. However, over 30% of the inspection and investigation files we reviewed contained no evidence indicating that the employer had rectified the unsafe workplace practices or that a re-inspection had been done. Consequently, the reliability of the MIS records that indicated all those orders had been complied with was questionable, as the Ministry was unable to demonstrate whether the discrepancy was caused by the lack of documentation or by corrective action not having been taken on the orders issued.

For example, a May 2002 inspection report noted that an employer had not established a joint health and safety committee and that the employees had not been properly trained on the use of lift trucks to move large objects. The inspector issued an order requiring the employer to establish a committee; the MIS indicated that the order had been complied with in December 2002. However, there was no evidence on file to show that compliance had taken place. In May 2003, an accident occurred in that workplace, resulting in a fatality of a worker who had been operating a lift truck. The Ministry's investigation determined that the deceased operator and 10 other workers who operated lift trucks had not been trained on their use and that the company had not established a joint health and safety committee. The Ministry has since initiated prosecution of the employer.

We found that some district managers were not familiar with using the MIS to extract information on inspectors' activities, such as reports on the number of orders issued and on whether follow-ups are being performed to verify compliance. As a result, their ability to monitor inspectors' activities appropriately was hindered.

## Recommendation

**To help ensure that contraventions are consistently dealt with and that corrective action is taken on identified health and safety hazards, the Ministry should monitor inspectors' activities to make sure that:**

- **orders are issued for all health and safety contraventions, as required by ministry policy; and**
- **orders are cancelled only after the inspector has received sufficient confirmation that the unsafe workplace practice has been rectified.**

***Ministry Response***

***The Ministry accepts this recommendation that its quality assurance and quality control (QA/QC) program , including the review and monitoring of inspectors' reports, needs to be improved. All managers have been re-instructed on the importance of this critical management responsibility. The Ministry will immediately undertake a comprehensive QA/QC initiative to ensure that inspectors' orders are issued according to ministry policy and are cancelled only when the inspector has appropriate documentation that the orders have been complied with.***

***Some of the deficiencies noted by the Auditor relating to compliance with orders may be related to data collection, input, and management. All staff will be provided with a refresher on basic inspector notebook rules and procedures and the proper use and coding of activity report forms.***

## Prosecuting Violators

### *OVERVIEW*

The Ministry may initiate prosecutions when there have been serious contraventions, including gross disregard of the legislation, failure to comply with orders, and obstruction of an inspector. The methods used by the Ministry to prosecute are found under Parts I and III of the *Provincial Offences Act*.

For more serious violations, including any that result in a worker's death or critical injury, individuals and/or corporations are prosecuted under Part III of the *Provincial Offences Act*. Part III prosecutions can result in lengthy, complex trials. If convicted of an offence under Part III, an individual employer, supervisor, or worker can be fined up to $25,000 and imprisoned for up to 12 months. The maximum fine for a corporation is $500,000.

For other violations, individuals are prosecuted under Part I of the *Provincial Offences Act*, using one of two methods: a summons or a ticket. Both carry a maximum fine of $500. A summons compels the defendant to appear in court. Tickets are used for certain offences (known as "scheduled offences"), each of which carries a set fine. A defendant can choose either to plead guilty and pay the set fine out of court or to appear in court to provide an explanation or request a trial.

The following table summarizes all fines imposed in 2003.

**2003 Occupational Health and Safety Fines by Industry Sector and Workplace Party**

| Industry Sector | Employers | | Supervisors | | Workers | | Total Fines ($) |
|---|---|---|---|---|---|---|---|
| | Number Fined | Average Fine ($) | Number Fined | Average Fine ($) | Number Fined | Average Fine ($) | |
| industrial | 99 | 39,500 | 9 | 5,500 | 4 | 300 | 3,960,000 |
| mining | 11 | 34,300 | 2 | 1,200 | 2 | 300 | 380,000 |
| construction | 86 | 30,800 | 144 | 500 | 232 | 200 | 2,780,000 |

*Source of data: Ministry of Labour*

## PURSUING PROSECUTIONS

We found that the Ministry generally pursued prosecutions under Part III of the Act when more serious violations resulting in fatal or critical injuries to workers had occurred. However, it had not adequately monitored inspectors' activities to ensure that, where appropriate, prosecutions under Part I of the Act were pursued.

The ability of inspectors to increase the number of Part I prosecutions to act as a deterrent to reduce workplace injuries and illnesses was made evident by the results of the Ministry's December 2003 inspection blitz of construction projects in the greater Toronto area, discussed earlier in this report. As a result of the zero-tolerance approach taken during this initiative, nearly 50% more Part I tickets and summonses were issued in the 45-day blitz than had been issued during the entire previous fiscal year for all construction projects in Ontario, as the following table illustrates.

**Construction Industry Prosecutions**

| Type of Prosecution under the *Provincial Offences Act* | All of Ontario, 2001/02 Fiscal Year | Greater Toronto, 45-day Inspection Blitz Commencing in December 2003 |
|---|---|---|
| Part I – tickets | 190 | 267 |
| Part II – summons | 52 | 92 |
| Part III | 56 | 14 |

*Source of data: Ministry of Labour*

In a November 2001 report to management, the Ministry's internal auditors had expressed their concerns about the inspectors' limited use of prosecutions. Their review indicated that strong enforcement action was rarely taken and that inspectors were generally uncomfortable with prosecuting. Instead, inspectors preferred to discuss their concerns with the employer.

The lack of prosecutions was even more prevalent in the mining and industrial sectors than in the construction sector. One reason for this lack of prosecutions could be that the Ministry had not established scheduled offences for these two sectors, as it had for the construction sector. Doing so would permit inspectors to impose set fines by issuing tickets—an alternative that consumes much less total time on the inspector's part than does issuing a summons (which requires both the defendant and the inspector to appear in court). Inspectors in these sectors informed us that the relatively low maximum fine of $500 under Part I of the Act often did not justify the substantial amount of work involved in issuing a summons. As a result, these inspectors tended to concentrate their prosecution efforts almost exclusively on Part III violations—that is, the more serious violations, especially those resulting in fatal or critical injuries to workers.

Ministry policy specifies that repeat offenders should be considered for prosecution, but we noted many cases where there was no prosecution even in instances where a number of repeat violations had occurred. In addition, as we noted earlier in this report, over 30% of the inspection and investigation files we reviewed had no evidence to demonstrate that the unsafe practices identified in the order had been rectified or that a re-inspection had taken place. In our view, the number of prosecutions was below what would be expected given the large proportion of cases in which there was no evidence that the employers had complied with the Ministry's orders and the high number of repeat offenders.

In a number of other North American jurisdictions, as well as in several other Ontario ministries, administrative monetary penalties have been introduced as an alternative to prosecution for certain offences. Under this arrangement, violators who have not committed a criminal offence are assessed financial penalties. If a case is appealed, the administrative process followed is much quicker and less costly than going through the courts. Administrative monetary penalties are also typically larger than the fines for Part I offences and are therefore more effective in deterring future violations. In early 2003, the Ministry made proposals to the incumbent Minister to amend the Act to provide for administrative monetary penalties.

### Recommendation

**To help ensure that the Ministry's enforcement efforts are both timely and effective in achieving compliance and in deterring future violations, the Ministry should:**

- **take more aggressive action to prosecute violators who fail to comply with ministry orders or who are repeatedly found to have unsafe workplace practices; and**
- **consider introducing more expeditious and effective enforcement tools, including scheduled offences for the industrial and mining sectors and administrative monetary penalties for violations that do not warrant criminal prosecution.**

**_Ministry Response_**

***The Ministry accepts this recommendation and has re-instructed its managers and staff on its enforcement policy.***

***The Ministry's recent announcement that 200 additional inspectors will be recruited includes putting additional legal branch resources in place to enable the Ministry to greatly increase the effectiveness of its enforcement.***

***The Ministry is currently working to provide inspectors greater access to using prosecutions under Part I of the*** **Provincial Offences Act.** ***New schedules of offences are being developed to enable inspectors to issue tickets in the industrial and mining sectors. The policy on the use of tickets will also be reviewed. This work will be completed by late fall 2004.***

## Monitoring Enforcement Efforts

### *REPORTING ON THE NUMBER OF INSPECTIONS AND INVESTIGATIONS*

The Merged Information System (MIS) records cases, each of which represents either one premise or project inspected or an investigation into an event (such as a fatal work accident). To complete a single case, an inspector may have to conduct one or more field visits.

The Ministry measures inspectors' workloads based on quotas for the number of field visits completed during the year. However, we found inconsistencies among the practices of inspectors in reporting field visits that hindered the usefulness of this measure as an indicator of inspectors' workloads. For example, some inspectors recorded such activities as picking up and delivering reports as field visits, whereas others simply treated those as administrative activities and therefore did not record them as field visits. In addition, some inspectors had created multiple cases for the same inspection or investigation, thereby overstating the number of premises or projects inspected. In one instance, we found that an inspector had created 15 separate cases and 48 field visits, of which 32 were for preparation time, for an investigation into a single accident. Inappropriate practices such as these make comparisons of inspectors' workloads difficult and also point to the need for better monitoring of inspector effectiveness and the deployment of the Program's overall inspection resources.

### *REPORTING ON INSPECTION RESULTS*

Inspectors are required to prepare a report following each inspection documenting such information as the purpose of the visit, the places and parts of the workplace inspected, a summary of any orders issued, and a brief account of the inspector's observations and comments. They are to obtain the names and, wherever possible, signatures of the employer's representative and of a worker representative. Information from the reports is transferred electronically to the MIS, and signed paper copies of the reports are filed in the respective district offices.

We reviewed a sample of files at the district offices and found that the records were often incomplete, inaccurate, and not of an adequate quality to effectively support enforcement efforts. With regard to the files we reviewed, we found that:

- In many cases the Ministry could not locate the actual inspection reports or other important documents, such as Notices of Compliance or other evidence of compliance with orders issued by inspectors.
- Half the reports that were available for review did not meet the quality standards specified by the Ministry's own policy and procedures manual. For many workplace inspections, the inspector's comments stated only "routine inspection" and provided no further details as to what the inspector reviewed and observed during the inspection. Also, in many instances the inspector did not obtain the signature of the report's recipient and/or of a worker representative, and provided no explanation as to why the missing signature(s) were not obtained.
- The Ministry had not required inspectors to record certain information in their inspection reports that would, if entered into the MIS, help the Ministry monitor inspection and investigation activities and make more effective management decisions. Such information could include an indication of how the workplace was selected for inspection (for example, because it was on the priority list established by management or for some other reason); and a list of any prosecution activities previously undertaken, along with the results of those activities.

We also had concerns regarding the completeness and accuracy of the information contained in the MIS database. Due to various data input, coding, and computer errors, the database contained too many instances where information did not make sense, such as a compliance date that was before the date on which the order in question was issued. Also, new identification numbers were created for workplaces that were already on the MIS. Consequently, inspectors had to be aware of multiple identification numbers to access all the history that the MIS contained on a specific workplace.

### *IMPROVING THE QUALITY OF INSPECTIONS*

Each region had established a quality assurance program that required the region's program co-ordinators to review inspectors' activities, including assessing samples of inspection and investigation reports and periodically accompanying inspectors on field visits. A sound quality assurance oversight process can be a valuable tool to assure management that its processes are working as intended. However, given our concerns with respect to inspectors' reports and documentation, we discussed these issues with a number of the regional program co-ordinators and they informed us that their reviews had found many of the same concerns.

This raises the issue of the overall effectiveness of the quality assurance programs in identifying and implementing improvements. The Ministry's internal auditors also identified this issue in a November 2001 report. They noted that organizational culture issues occur between the role of the co-ordinator and that of the inspectors, and that these issues often did not permit independent and frank reviews of inspectors' activities.

There were also inconsistencies in the co-ordinators' approaches to conducting quality assurance reviews and to reporting on their results. Some program co-ordinators did not communicate their findings to inspectors or district managers, but instead reported their observations only to regional management.

In addition, regional management is not required to report the results of reviews conducted under its quality assurance programs to senior management at the Ministry's head office. Such reporting would improve senior management's ability to monitor Program activities to ensure consistency in enforcing the Act throughout the province and to identify and address common issues.

We noted that at two districts, managers had established periodic rotation schedules for their inspectors, requiring them to exchange geographic areas from every six months to every two years. Rotations permit inspectors to gain exposure to different types of workplaces or projects and bring new perspectives to an area. The Ministry did not have a formal policy on rotations, and we believe this practice would improve quality if applied in all districts.

**Recommendation**

**To strengthen support for enforcement efforts aimed at reducing workplace injuries and illnesses, the Ministry should:**

- **review and improve its systems and procedures for measuring and monitoring the deployment of staff resources on enforcement activities to ensure the allocation of staff is based on relative workload and risk;**
- **improve its reporting of inspection results to ensure that important documents are kept, that the information is complete and accurate, and that the quality of inspections complies with ministry policies and procedures;**
- **build on its quality assurance initiative by taking action to ensure that it is effective and consistent between regions and that concerns and best practices noted are appropriately communicated to staff and management; and**
- **consider implementing periodic rotation of inspectors to different geographic areas.**

***Ministry Response***

***The Ministry is taking action to improve the allocation of staff based on workload and risk. The formal agreement with the Workplace Safety and***

***Insurance Board for sharing information, referred to earlier, now enables the Ministry to identify specific high-risk workplaces for targeted inspections. The 200 additional inspectors are being earmarked for locations across the province based on a workload assessment.***

***As noted previously, the Ministry has initiated action to improve its quality assurance system to ensure that ministry policies and procedures are followed and that concerns as well as best practices are communicated to staff and management. Particular attention will be paid to ensuring that inspectors, support staff, and managers know and fulfill their respective roles in delivering quality standards such as the quality of inspection reports and the completeness of files.***

***Managers will consider the periodic rotation of inspectors to different geographic areas, where and when that is operationally feasible and appropriate.***

## MEASURING AND REPORTING ON PROGRAM EFFECTIVENESS

According to the Ministry's most recent business plan, the Program "supports Ontario workplaces to be among the safest in the world, where safety, productivity and competitiveness are inter-connected." The Ministry's contributions include "setting, communicating and enforcing occupational health and safety laws to reduce or eliminate workplace injury or illness."

The Ministry is required to provide to the Management Board of Cabinet an annual results-based business plan that outlines plans for the coming year and reports on performance from the previous year. Such reports are also intended to inform legislators and the public about the extent to which programs and services are meeting program objectives and providing value to the public. The annual business plan serves not only as a vehicle to focus attention on results and drive change but also as a mechanism for fostering openness and accountability.

We assessed whether or not the Ministry had adequate systems and procedures in place to measure and report on the Program's effectiveness. The criteria that we agreed to with the Ministry for the purpose of assessment encompassed a set of performance-reporting principles developed by the CCAF-FCVI Inc. (formerly the Canadian Comprehensive Auditing Foundation – La fondation canadienne pour la vérification integrée), a national non-profit research and educational foundation that works in consultation with legislators, government officials, and legislative auditors across Canada. These principles include:

- focusing on the few critical aspects of performance;
- looking forward as well as back;

- explaining key risk and capacity considerations and other factors critical to performance;
- integrating financial and non-financial information;
- providing comparative information;
- presenting credible information, fairly interpreted; and
- disclosing the basis for reporting.

We concluded that the Ministry did not have adequate performance-reporting systems or procedures in place for the Program that met the CCAF-FCVI Inc. principles. The Ministry's business plan supplied only one performance measure and offered a limited narrative to highlight program results during the year. The Ministry's key measure was the rate of lost-time injuries resulting from workplace accidents over the previous five years. But that measure reflects the effectiveness of the system as a whole, since the rate of lost-time injuries is affected not only by the Ministry's own activities but also by those of the WSIB and its health and safety delivery organizations.

To better inform the Legislature and the public about the Program's success in contributing to protecting worker safety, the Ministry needs to report on aspects of its own performance that it can control and be accountable for. We suggested the following additional areas that the Ministry should consider measuring and reporting on to better inform the public and to help clarify factors that influence the Program's success:

- the number of cases (workplaces) inspected and investigated;
- best workplace practices as well as the most common health and safety violations identified from inspections, such as fall hazards, ineffective internal responsibility systems at workplaces, and the use of unsafe equipment;
- the most common types of accidents investigated, such as falls, amputations, and work-related diseases;
- performance by industry sectors and subsectors in reducing lost-time injuries and violations; and
- enforcement measures used (for example, orders, fines, and prosecutions) and the effectiveness of these measures in achieving compliance.

Most of this above information was already available internally to ministry management or could be easily made available with minimal changes to existing procedures. The information could be reported publicly using the Ministry's business plan or on its public Web site.

**Recommendation**

**To help ensure the accountability of the Occupational Health and Safety Program and to assist the Legislature in making decisions affecting program direction and resource allocation, the Ministry should develop, in accordance with appropriate performance-reporting principles, more comprehensive indicators for measuring and publicly reporting on the Program's effectiveness.**

*Ministry Response*

*The Ministry uses the lost-time injury rate as an important outcome measure reflecting the overall state of health and safety, and one that can be used to compare with other jurisdictions. However, the Ministry also monitors other outcome measures, such as fatalities, injury costs, and the non-lost-time injury rate. In addition, the Ministry monitors key activity measures, including the number of inspections, investigations, total field visits, orders issued, and prosecutions. The number of work refusals and complaints reported to the Ministry are also tracked. Statistics on all of these measures for the past 10 years have recently been posted on the ministry Web site, and additional measures are being considered.*

# 3.11–Purchasing Cards

## BACKGROUND

The government of Ontario first implemented purchasing cards (PCards) for its employees in 1996 to reduce the administrative cost of acquiring and paying for low-dollar-value goods and services. The Management Board of Cabinet generally defines these as purchases of $5,000 or less. The PCard (which is a MasterCard) is not to be used for travel and travel-related expenses, payment of salary and wages, or personal purposes. The Management Board of Cabinet's Procurement Directive for Goods and Services sets out the operating procedures for using PCards. While each PCard is issued in the name of a government employee, the government is liable for all expenditures made on the cards. A major Canadian bank is the current PCard service provider for the government of Ontario.

With respect to PCards, Management Board Secretariat (MBS) is primarily responsible for:

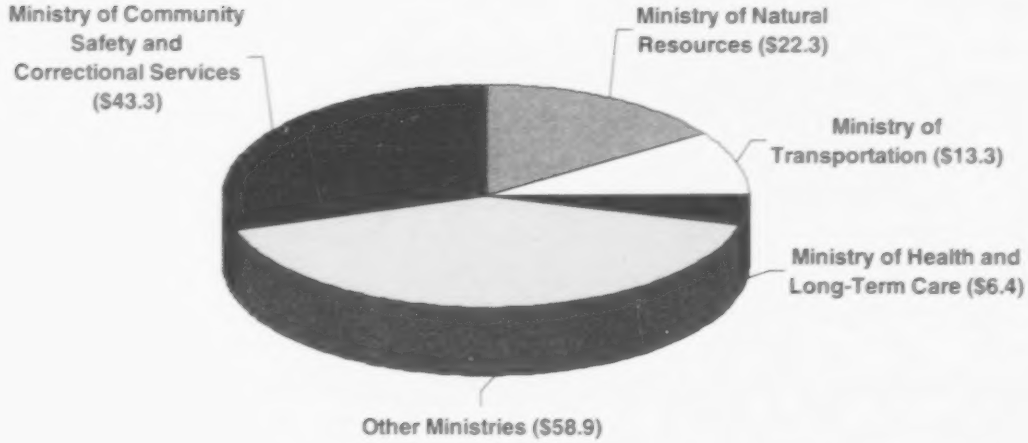
- negotiating, establishing, and maintaining the corporate contract with the PCard provider; and
- when requested, assisting ministries in the development of their administrative procedures in support of the Procurement Directive and PCard operating procedures.

Expected benefits from using the PCard include:

- reduced administrative costs in paying for low-dollar-value purchases—ministries can replace multiple cheque payments to numerous vendors with one payment to the PCard service provider;
- no GST charges (since each card has a GST exemption number);
- reduced use by employees of petty cash and accountable advances; and
- a simplified purchasing process for employees.

During the 2003/04 fiscal year, an average of 14,600 PCards were held by government employees. Approximately 720,000 transactions totalling $144 million were processed. The four ministries we audited accounted for approximately 60% of the total amount spent, as shown in the following pie chart.

Purchasing Card Expenditures, 2003/04
($ million)



*Source of data: PCard service provider*

# AUDIT OBJECTIVE AND SCOPE

The objective of our audit was to assess whether internal controls over the management and use of Ontario government purchasing cards (PCards) were functioning effectively to ensure that relevant government directives, policies, and procedures were complied with.

Our audit fieldwork was conducted at Management Board Secretariat (MBS) and the ministries of Community Safety and Correctional Services; Health and Long-Term Care; Natural Resources; and Transportation. Our audit fieldwork was substantially completed in June 2004 and focused on expenditures incurred from November 2002 to October 2003. Our audit fieldwork was conducted in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances. The criteria used to conclude on our audit objectives were discussed with and agreed to by senior management at MBS and each of the four ministries we audited. These criteria relate to systems, policies, and procedures that should be in place and operating effectively.

In conducting our audit, we also used various computer-assisted auditing techniques to select the PCards to be audited at each ministry and to analyze PCard transaction data and statistics.

At the ministries of Community Safety and Correctional Services and Transportation, the Internal Audit branches had conducted recent audit work on PCard expenditures. We reviewed their work and took it into account in conducting our audit.

# OVERALL AUDIT CONCLUSIONS

We found that the vast majority of purchasing-card (PCard) transactions were in compliance with relevant government directives, policies, and procedures. However, we did note a number of exceptions at each of the ministries we audited, including numerous instances where supporting documents for expenditures were either lacking or inadequate. We believe that many of the exceptions we found could have been prevented or appropriately addressed if there had been adequate managerial review and approval of the monthly PCard billing statements. Without this key control, a significant risk exists that any inappropriate PCard transactions would not be detected.

The exceptions noted during our audit included the following:

- Monthly statements were not always being reconciled with supporting receipts in a timely manner, resulting in instances where the government was not able to recover payments for purchases that were improperly charged to a card.
- A number of purchases lacked supporting receipts, making it impossible to determine what was purchased and whether the purchases were made for government business purposes.
- Some purchases were supported only by faxed or photocopied receipts, increasing the risk of alterations and duplicate payments being made.
- Supporting receipts for some purchases would have raised questions if they had been properly reviewed by supervisors or managers. For example, we noted numerous purchases of a personal nature and travel-related expenditures, both of which are contrary to government directives.

With respect to employees' spending limits, we found that some purchases that exceeded the maximum permitted dollar limit for a transaction were split into two or more transactions.

We also noted that neither Management Board Secretariat (MBS) nor the individual ministries at which we reviewed the PCard program had established any guidelines with respect to who should have a PCard.

We found that MBS had followed a fair and transparent competitive process in selecting the current PCard service provider.

# DETAILED AUDIT OBSERVATIONS

## CONTROLS ON PURCHASING CARDS

The use of the purchasing card (PCard) represents a significant change over traditional purchasing methods. Traditionally, purchases were approved in advance by an individual's manager. The PCard process, in contrast, allows the individual to make purchases using the card without formal pre-approval. Accordingly, it is essential with such a process to have in place appropriate approvals and monitoring to ensure that purchases are made properly and only for government purposes.

The Management Board of Cabinet's Procurement Directive for Goods and Services sets out the operating procedures for PCard management. Along with describing the process for using PCards, it outlines the responsibilities of different parties, including the following:

- Employees are to:
    - use their PCards for allowable purposes only;
    - ensure that all billings on their monthly statements reflect actual purchases made; and
    - maintain supporting documentation (especially original receipts) and submit such with their monthly statements to their manager for review and approval.
- Program managers are to:
    - authorize which employees are to receive PCards and set for each cardholder a maximum dollar limit per transaction and a credit limit per month;
    - implement proper record retention processes for receipts and statements;
    - verify the appropriateness of transactions;
    - monitor accounts to ensure that employees are adhering to card use requirements; and
    - cancel PCards for employees leaving their business unit.

In addition to the operating controls developed by Management Board Secretariat (MBS) and individual ministries, the PCard program has two overriding system controls. First, the system is to block employees from purchasing goods and services from specific merchants such as airlines, car rental companies, bars, taverns, health and beauty spas, financial institutions, and membership organizations such as golf courses. Second, each cardholder is assigned specific transaction and monthly dollar limits on their PCard. If an employee attempts to purchase goods or services that are from a blocked merchant or that exceed the employee's transaction or monthly limits, then approval is to be declined by the PCard service provider's system, and the PCard cannot be used to complete the purchase. Employees may, after obtaining proper managerial approval, request a temporary exemption from these controls in order to make a specific purchase.

For financial reporting and cost control purposes, each PCard is assigned to a particular budget code or organizational unit for tracking costs. If an employee is authorized to purchase goods and services for two or more different organizational units, he or she is assigned a different PCard for each unit.

Although the following comments do point out a number of exceptions and areas where controls require strengthening, it should be noted that for the vast majority of PCard transactions reviewed, we found that government employees were following the Procurement Directive.

## *VERIFICATION OF TRANSACTIONS*

After a cardholder makes a purchase, the vendor is paid by the PCard service provider within 48 hours. Each month, the PCard service provider electronically sends to each ministry a single bill that itemizes all purchases and other key data, such as the corresponding organizational unit. At the end of each month, the government electronically transfers to the PCard service provider an amount that covers the purchases made by all PCard holders during that month.

### Reconciliation of Monthly Statements

Risks incurred in the use of any charge card include the erroneous posting of transactions to the card and duplicate charges being posted by a vendor. It is therefore crucial that the transactions on monthly statements are verified to ensure payment is not made for goods and services that were not received.

Each PCard holder is required to download his or her monthly statement from the PCard service provider and account for all purchases with supporting receipts from suppliers. The statement and supporting receipts are then to be submitted to the PCard holder's manager for approval. Timely and thorough reconciliations of statements are of critical importance to ensure that any disputed charges can be identified and corrected on a timely basis. For example, a cardholder promptly identified an incorrect charge exceeding $8,000 on a PCard statement, and the charge was reversed by the PCard provider. However, we noted a number of examples of erroneous or duplicate charges that were not promptly identified by the cardholder. For example:

- An employee had not reconciled a PCard statement for more than two months, after which time the employee noticed a $928 charge that should not have been on the statement. The card was then cancelled to prevent further risk to the Ministry, but we were advised the payment could not be recovered because too much time had elapsed.

- Another employee failed to identify a duplicate charge of $3,900 in April 2003 for the acquisition of four personal digital assistants (PDAs). We identified the duplicate charge during our review, but the government as yet has been unable to recover the $3,900 because too much time had elapsed.

## Submission of Supporting Documents

As mentioned, the Procurement Directive requires that cardholders maintain original, detailed supporting documents and submit them with their monthly statements to supervisors. Ideally, such documents clearly identify the name of the purchaser, what was purchased, and the name of the vendor.

We found many instances where no receipt at all was provided; the receipt provided lacked sufficient detail; or the receipt provided was photocopied or faxed. In such cases, there is an increased risk that improper use of PCards will go undetected. Some of the more significant examples we found were as follows:

- At three of the ministries we audited, we selected for review transactions from PCards issued to a staff member in each ministry's Minister's Office. During the period from November 2002 to October 2003, these three individuals incurred PCard expenditures totalling approximately $133,000. The types of purchases on these cards included cell phone charges, courier services, and office-related items. When we asked for documentation to support the purchases made on these three cards, we were advised that no receipts were available. Ministry staff indicated that the receipts were likely destroyed after the October 2003 provincial election. Accordingly, we were unable to determine whether the charges on the PCards of these staff had ever been supported by proper receipts.
- One employee purchased $20,000 worth of items from a retailer over a two-year period but submitted only charge card slips. There were no detailed receipts itemizing what was purchased. This same employee also accrued a significant number of loyalty points from the retailer, which contravenes government policy. We also noted that this employee submitted a number of receipts from two fuel vendors. The employee had altered the receipts to indicate that items of a different nature had been purchased. At the completion of our audit work, the Ministry was still investigating these matters.
- Another employee had 11 PCard expenditures from December 2002 to July 2003—totalling approximately $9,400—with no supporting documents provided to support the purchases. Purchases were made from office suppliers, computer companies, and a ski resort. We understand that this employee retired in 2004, and no receipts have been obtained to support the 11 purchases.

We also noted numerous instances where photocopied or faxed receipts were submitted to support purchases that were often for thousands of dollars. This increases the risk of alterations or duplicate payments being made.

## Review and Approval of Monthly Statements

Timely and thorough review and approval of purchases is an essential control over the use of PCards. The approving manager is responsible for ensuring that all purchases made by the cardholder are business related and are supported by appropriate detailed receipts. We found far too many instances where the required review had not been satisfactorily done. Such review by approving managers may have mitigated many of the problems identified in our report.

### *TIMELINESS OF APPROVALS*

We found many instances where managers did not perform their approval function in a timely or otherwise satisfactory manner. For instance:

- A program manager did not approve one cardholder's monthly statements where receipts were missing. However, no further follow-up action was taken.
- The monthly statements for one employee covering December 2002 to June 2003 were all approved on April 19, 2004; furthermore, the November 2002 statement was never approved. We understand that it was not until we were conducting our audit work in 2004 that ministry staff noted an inappropriate charge of $400. For another two ministry employees, statements for November 2002 to October 2003 were all approved on March 22, 2004. For another cardholder, the monthly reconciliations for the 11 months from December 2002 to October 2003 inclusive were all signed on January 29, 2004, shortly before they were provided to us for our audit.
- A number of managers had never approved several months' worth of their employees' monthly statements.
- Numerous managerial approvals throughout the ministries were not dated. As a result, it was impossible to determine if reviews had been completed on a timely basis.
- In one case where an employee's PCard statements for the 10-month period from January to October 2003 had never been approved, we were advised that the employee's supervisor was not even aware that the employee had a PCard. We found that a significant number of receipts were missing and could not be subsequently provided.

The last example demonstrates the need to ensure that managers are aware of which members of their staff have a PCard, whether or not the card has been used in the previous month, and the monthly activity. Recognizing this need, one of the ministries we audited has implemented a good practice whereby reports are provided to managers to enable them to determine which members of their staff have PCards, whether their PCards were used during the previous month, and the amounts spent on the cards.

## DISALLOWED CARD USES

The Procurement Directive for Goods and Services states that PCards "must not be used for travel and travel-related expenses, payment of salary and wages or personal purposes" and requires that employees certify that all card charges are for goods and services that benefit the government.

### Purchases of Personal Items

We noted a number of instances where employees used their PCards to acquire personal items that were subsequently paid for by their ministry. The most significant of these instances were as follows:

- Between November 2002 and June 2003, an employee made numerous purchases without providing receipts detailing what was purchased. We noted that the employee's manager signed the statements for these months, indicating approval—even though the receipts were missing and the employee had signed only the statements for May and June 2003. When we brought this to the Ministry's attention, the Ministry agreed that a number of the purchases should have been questioned based on the types of vendors listed in the statements, including a total of $1,786 from one drugstore and approximately $400 from other vendors.

  As a result of our inquiry, the Ministry conducted an investigation and found that 53 purchases from this drugstore—made in the period from October 2000 to November 2003 and totalling $5,000—were missing receipts. The Ministry obtained copies of the relevant receipts from the drugstore and found that the purchases included what appeared to be personal items. They included approximately $2,700 worth of prescription drugs purchased from March 2002 to April 2003. Of this amount, the employee had been personally reimbursed $2,500 from the government's employee drug plan. In February 2004, after being advised of these issues, the employee repaid $1,779. We understand that, as of June 2004, the Ministry was continuing to address these matters with the employee involved, although it had still not cancelled this employee's PCard.

- In December 2003, an employee made two purchases totalling $630 using a PCard. When we raised questions about the purchases in May 2004, the employee informed us that the PCard was used inadvertently and that these items should have been purchased using the employee's personal credit card. While we were advised that the employee is repaying the $630, it should be noted that this employee had also claimed approximately $3,100 in personal expenses on travel claims. This issue is discussed in our audit report on travel and other related expenditures (see Section 3.12).

- In September 2003, another employee used a PCard to make two payments to a dentist totalling $1,168 and purchased clothing and shoes totalling $391. None of the employee's statements from April 2003 to October 2003 had been approved. We understand that the employee left the Ministry in early 2004.

### Purchases Relating to Travel

We found frequent instances where PCards were used for travel and travel-related expenses. Although these were generally business related, government policies do not permit the use of the PCard for such purposes. For example:

- Many employees at one ministry were using their PCards to pay for travel-related items such as meals, gas for rental cars or government vehicles, and accommodation. We also noted a case where two employees charged to their PCards approximately $1,800 for 90 meals.
- Several employees at another ministry used their PCards to pay for travel-related items such as meals that included alcohol and accommodation. On one PCard, car service/limousine charges for two employees totalled $12,400 in one year, while another card had $5,600 in similar charges. These expenditures were generally for travel from Toronto to North Bay and totalled approximately $450 each way. This example is also discussed in our report on travel and other related expenditures.

Permitting employees to use PCards to pay for travel-related expenditures increases the risk that an item may be paid for twice, once on the PCard and once as part of a travel claim.

## Employee Recognition and Gift Purchases

While the Management Board of Cabinet directive on Travel Management and General Expenses clearly prohibits the use of public funds for social events—and specifies testimonial dinners and farewell functions as such—it is not always clear whether items purchased to recognize or reward employees are to be included in this prohibition.

We found that the practices followed in this regard varied between ministries and within ministries. It appears that the decision on whether or not to use public funds to pay for such items was generally left to the discretion of staff in each ministry program area or regional office. We noted numerous instances where PCards were used to pay for floral arrangements for staff or staff family members and staff appreciation and recognition events. The following are examples of such PCard uses noted at the ministries we audited:

- Approximately $800 was spent on one PCard for flowers for various occasions from November 2002 to October 2003. At another ministry, $850 on one PCard and $780 on another PCard were spent for flowers during a one-year period.
- At one ministry, $858 was spent in September 2003 on a golf tournament and meals for approximately 30 employees.
- At one ministry, $503 was spent to purchase a gold chain and earrings as a gift for a retiring employee; at another ministry, $360 was spent on food and retirement-party supplies.

- At one ministry, an employee was regularly purchasing items that we understood were to be given either to speakers at various events or to members of groups visiting from within and outside of the province. In February 2003, purchases totalling $1,592 were made at one store; in March 2003, purchases were made at three other stores, totalling $1,096. Similar types of purchases were also noted at another ministry: at one office, $4,000 was spent for items such as blankets, clocks, and watches to give as gifts to visitors from other jurisdictions or to recognize employees; at another office, $3,000 was spent on blankets, embroidered shirts, and sweatshirts for similar purposes; at a third office, $1,300 was spent to purchase 10 coats, ranging in cost from $90 to $300 each, to be given to staff for special accomplishments.

We acknowledge that in some instances, purchases of this nature may well be justified. However, there is a need for guidance to ministries in this area, including what is a reasonable amount to spend on particular types of purchases.

### Recommendation

**To help ensure that only valid expenditures are charged to purchasing cards (PCards) and that PCards are used in accordance with government policies, Management Board Secretariat should work with ministries to reinforce with PCard holders and their managers that:**

- **proper detailed receipts must be submitted to support all PCard purchases on employees' monthly statements;**
- **billings should be reconciled with purchases on a monthly basis, and any discrepancies must be promptly followed up on;**
- **PCards from employees who habitually do not provide receipts for purchases should be cancelled; and**
- **all PCard statements and supporting receipts must be reviewed and approved monthly by the appropriate managers.**

**To help ensure that all monthly statements are reviewed and approved, Management Board Secretariat should ensure that managers are provided with monthly reports that identify which of their employees have PCards and whether they have used their cards.**

**To help ensure that practices are consistent among ministries and are in accordance with government expectations, Management Board Secretariat should provide some guidance regarding the expenditure of public funds on employee recognition and gifts for official visitors and speakers at ministry events.**

***Management Board Response***

***Management Board Secretariat (MBS) agrees with the recommendation and is committed to ensuring that cost-effective controls are in place with respect to government spending and governing the use of the purchasing card (PCard).***

***In that context, MBS will work with the ministries to strengthen oversight procedures with respect to validation, documentation, review, and approval of PCard transactions. MBS is also working with the respective ministries on specific findings to ensure that action is taken to address all the exceptions to proper procedures noted in the report, including full repayment and other disciplinary actions as appropriate.***

***MBS will also undertake a comprehensive education and communication initiative for the PCard program to ensure that OPS staff reconcile and approve monthly purchases; that those purchases are supported with proper detailed receipts; and that the program promptly addresses any issues or discrepancies.***

***MBS is also working with the PCard service provider to ensure that tools are available to provide transaction details to cardholders and managers in a timely manner.***

***MBS, in consultation with Cabinet Office, will also develop guidelines regarding the use of public funds for employee recognition and gifts for official visitors and speakers at ministry events.***

## *MANAGEMENT OF CARD ISSUANCE AND SPENDING LIMITS*

The Procurement Directive requires that program managers set for each cardholder a maximum dollar limit per transaction and a credit limit per month. The dollar limit per transaction is a key system control placed on all PCards. Provided they have managerial approval, employees may obtain a temporary exemption from their transaction limit to purchase a specific item that exceeds the limit.

### Split Purchases

We noted several instances where employees who did not obtain a transaction-limit exemption circumvented the dollar-limit control by splitting a purchase that exceeded the limit into two or more transactions. Such a practice increases the risk that a high-priced item may be interpreted by a supervisor reviewing a monthly statement as a number of lower-priced items. Our findings included the following:

- At one ministry, an employee who had a $10,000 limit per transaction made a purchase of approximately $43,000 from a supplier of scientific equipment and split it into four transactions. In addition to our concern about the practice of splitting such a purchase into multiple transactions, we questioned whether using the PCard for a purchase of this magnitude is meeting the PCard's intent of reducing the cost of acquiring and paying for low-dollar-value goods and services. The practice of splitting such purchases could also lead to avoidance of prudent purchasing requirements such as obtaining competitive quotes.

- At another ministry, an employee whose dollar limit per transaction was $5,000 purchased an item costing $7,975. The employee split the purchase into two transactions of $5,000 and $2,975. In another case at the same ministry, an employee with a $1,000 transaction limit split a purchase of $5,219 into five separate transactions.
- At a third ministry, an employee bought a digital camera for $4,622 and split the purchase into five separate transactions. Initially there was no receipt attached for this purchase (one was provided after our request). In addition to questioning the splitting of the invoice, we expressed concerns regarding the need for such an expensive camera.

### Recommendation

**To help ensure that purchasing-card limits are properly adhered to and are functioning effectively as a key control, Management Board Secretariat should reinforce with ministries the need to:**

- **flag and follow up on purchases that monthly statements or other documents indicate may have been split into multiple transactions; and**
- **remind employees that they must obtain a temporary exemption when transaction limits need to be exceeded.**

### *Management Board Response*

***Management Board Secretariat (MBS) agrees with the recommendation and will work with the ministries to strengthen processes for ensuring that card limits are followed by all cardholders.***

***MBS is also undertaking a comprehensive review of the types of reports currently available through the PCard program to identify mechanisms for improving information on cardholders and their card activity, including information on whether a purchase has been split into multiple transactions.***

***MBS will undertake a comprehensive education and communication initiative around the PCard that emphasizes the requirement that employees must obtain a temporary exemption when transaction limits need to be exceeded. In addition, managers will be reminded of the need to reconcile and approve monthly purchases, ensure that those purchases are supported with proper detailed receipts, and promptly address any issues or discrepancies.***

## Review of Card Utilization and Limits

PCards can also be used improperly by employees who have no need for a PCard or whose card limits have been set unnecessarily high. It is therefore important to ensure that PCards are issued only to employees who need them to fulfill their duties and that the PCard limits set for those employees are consistent with the employees' spending needs.

We found that neither the Management Board of Cabinet nor the individual ministries at which we reviewed the PCard program had established any guidelines with respect to who should have a PCard. This decision is left up to managers' discretion, as is the decision of what credit limits to establish for staff.

Given that each PCard increases financial risk to the government, we expected that each ministry would periodically assess whether any PCards should be cancelled due to lack of use or whether any limits on cards should be adjusted. That is, continued lack of card activity should warrant a management review of a cardholder's need of a card.

In this regard, we found in our review of overall government purchasing-card data that no purchases had been made for a year on 644 PCards—representing 5% of the total number of government PCards—active for the period of November 1, 2002 to October 31, 2003. In addition, we noted that approximately 50% of PCard holders used less than 5% of the maximum credit available to them.

Early in 2004, one ministry conducted a review to determine whether any PCards should be cancelled due to low usage and whether the transaction and/or monthly limits on any cards should be adjusted. The Ministry determined that, of 2,316 cards issued, 270 cards should be cancelled, and the limits on 644 cards should be reduced. Accordingly, total monthly limits were reduced by approximately 33% (from a total of $23.9 million to a total of $16 million).

However, we did not observe this good practice being followed at the other three ministries we audited—none of the three ministries had completed recent reviews of their PCards with a view to cancelling cards or adjusting limits.

Managers are also responsible for ensuring that PCards held by staff who are leaving the government or moving to other units are cancelled on a timely basis. In some instances, it was not possible to determine when or if ministries requested that the PCard service provider cancel PCards, since, according to ministry staff, the PCard service provider was not providing confirmation of cancellations. We noted that PCards had yet to be cancelled for 43 staff at one ministry who had left anywhere from one to 17 months previously. At two other ministries, we noted lengthy delays between the date employees left and the date when cards were cancelled.

**Recommendation**

**To help limit the risk of inappropriate purchases being made on purchasing cards, Management Board Secretariat should require that all ministries regularly assess:**

- **whether any cards should be cancelled;**
- **whether any card limits should be adjusted; and**
- **whether cards are being cancelled on a timely basis where cardholders have left the program.**

***Management Board Response***

***Management Board Secretariat (MBS) agrees with the recommendation and will work with the ministries to ensure that ministries regularly assess whether cards should be cancelled and whether card limits should be adjusted. Controls will also be reviewed to ensure that cards are cancelled in a timely manner when cardholders leave a ministry.***

***MBS is also undertaking a comprehensive review of the types of reports currently available through the PCard program to identify mechanisms for improving information on cardholders and their card activity. MBS agrees that improved and more detailed reports will strengthen program managers' ability to control card issuance and usage.***

## Effectiveness of Card Limits

The PCard service provider's system is to decline approval at the point of purchase if an employee attempts to purchase goods or services that exceed transaction limits (keeping in mind that employees can, with managerial approval, obtain a temporary lift of their limits in the system and thereby not be hindered in making purchases exceeding the limit).

We found approximately 500 transactions where staff made purchases exceeding their transaction limits. We took a sample from among the transactions made at one ministry and found that staff had obtained temporary exemptions from their limits to make a specific purchase. However, at another ministry, with respect to a sample of 17 transactions that exceeded the limit, only three of the transactions involved a temporary limit increase; the 14 remaining transactions were nevertheless processed by the service provider and billed to the government. One of the employees involved in the latter group of transactions, who had a $1,500 limit and had made a $3,100 purchase, indicated that the merchant was able to process the transaction and the employee was unaware the transaction exceeded the allowable limit. We questioned how the system would allow such transactions to be processed and were advised that this issue would be followed up on with the service provider.

**Recommendation**

**To help ensure that transaction limits are adhered to, Management Board Secretariat should, with the purchasing-card service provider, investigate why the system is processing purchases that exceed employees' transaction limits when employees have not obtained appropriate approvals.**

***Management Board Response***

***Management Board Secretariat (MBS) agrees with the recommendation and will work with the service provider to ensure that system controls on dollar limits for cardholder transactions, as well as controls on the types of transactions, are in place.***

***As part of its comprehensive education and communication initiative around the PCard, MBS will work with ministries to ensure that:***

- ***managers understand the requirements to review, report, and address transactions that exceed cardholder limits and report such transactions to the service provider; and***
- ***cardholders and managers understand that card limits must be adhered to unless the employee has received prior approval to exceed the limit.***

## *MINISTRY MONITORING OF PURCHASING-CARD TRANSACTIONS*

The various issues identified in our report illustrate the value of ministries periodically conducting reviews of PCard usage. Conducting such reviews can:

- serve as a deterrent to potential abusers of their PCards;
- promote more careful oversight and management on the part of managers of PCard holders; and
- identify control breaches and exceptions.

Two of the four ministries we audited have taken steps to undertake internal reviews of PCard expenditures. One started conducting reviews of PCard records in 2001 and completed a second review in 2003. In 2004, the other undertook an initial risk assessment of its PCard program, developed appropriate selection criteria, and reviewed a small sample of transactions.

We noted that the two ministries undertaking reviews were not consistent in their approaches and reporting processes. Providing ministries with some standardized tools could be beneficial. Such tools could include a standard set of factors to use in assessing risk and selecting samples for review, and a common set of procedures for analyzing transaction data, completing review work, and reporting on review results.

PCard reviews could also be made more effective if detailed information were acquired from the PCard service provider. Currently, the PCard service provider can provide only simple statistical information to ministries, such as the amount spent by PCard holders. Examples of the type of information that would assist management in overseeing PCard usage could include total purchases by vendor, all purchases over a maximum dollar amount, and which PCard holders are exceeding their PCard limits.

**Recommendation**

**To promote responsible and compliant purchasing-card usage and to identify weaknesses in controls, Management Board Secretariat should:**

- **help ministries develop standardized procedures for periodically reviewing and reporting on purchasing-card transactions; and**
- **work with the purchasing-card service provider to make available to ministries the detailed information that would enhance the review process.**

***Management Board Response***

***Management Board Secretariat (MBS) agrees that strengthening of controls cost effectively will promote responsible and compliant PCard usage.***

***MBS will investigate the development of standardized procedures and tools for periodically reviewing and reporting on PCard transactions as recommended by the Provincial Auditor.***

***MBS is also undertaking a comprehensive review of the types of reports currently available through the PCard program to identify mechanisms for improving information on cardholders and their card activity. MBS agrees that improved and more detailed reports will strengthen program managers' ability to control card issuance and usage.***

## SELECTION OF PURCHASING-CARD SERVICE PROVIDER

The initial PCard service provider had originally been awarded the contract in 1996. A second contract was awarded in 1999. In order to comply with its practice of periodically retendering ongoing business, the Management Board of Cabinet issued a request for proposals in August 2001 for the provision of purchasing-card services to the government of Ontario. Four proposals were received by the required deadline, and each of the proposals was evaluated based on a number of criteria, including:

- experience;
- ease of card issuance;

- the process for distributing and cancelling cards;
- reporting and billing requirements; and
- customer support services.

Evaluation of the proposals based on these criteria narrowed the bidders down to two, who were then assessed based on their prices/fees and the rebates they offered.

We reviewed the selection process for the new contract and found that it was transparent and that it allowed all bidders to have a fair and equal opportunity to obtain the contract. A three-year contract was awarded to a major Canadian bank, which was not the incumbent provider, to commence on November 1, 2002.

# 3.12–Travel and Other Related Expenditures

## BACKGROUND

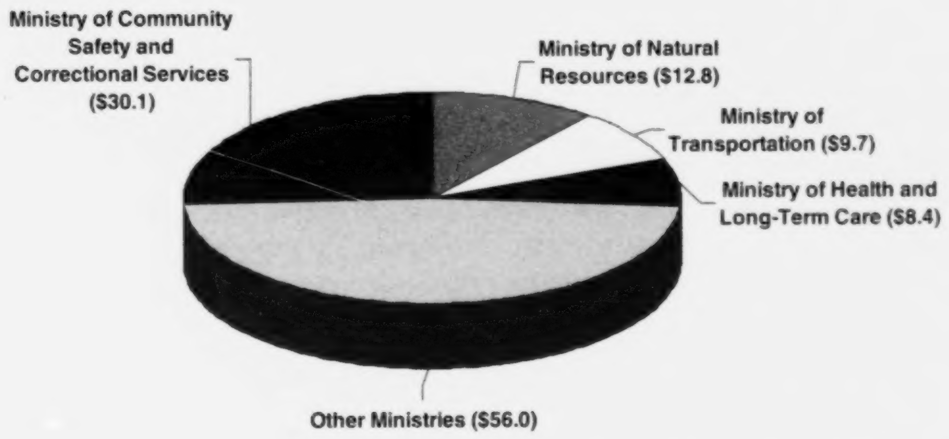
Management Board Secretariat (MBS) is responsible for developing corporate policies on travel and other related expenditures. Travel expenditures include, for example, air, accommodation, and meal costs incurred by employees travelling on government business; other related expenditures include, for example, the costs of conference facilities and attendance and meals for employees conducting business during normal meal times.

In 1997, MBS issued the Travel Management and General Expenses Directive (Directive). It applies to all employees in all ministries and governs overall government travel and other related activities, including the acquisition of travel services and the process employees must follow for claiming travel expenses. Travel and other related expenditures may be paid directly by an employee, who is subsequently reimbursed by their ministry, or they may be billed to and paid directly by a ministry.

MBS is responsible for negotiating and managing corporate contracts for travel agency and charge card services, as well as providing assistance to ministries in developing and administering employee expense procedures and practices.

Based on information provided by the ministries for the 2002/03 fiscal year, the government processed about 400,000 travel and other related claims and directly billed invoices; and it expended about $117 million on travel and other related expenditures. The four ministries we audited accounted for over 50% of the total amount spent, as shown in the following pie chart.

**Travel and Other Related Expenditures, 2002/03 ($ million)**



*Source of data: various ministries*

# AUDIT OBJECTIVE AND SCOPE

The objective of our audit was to assess whether there were adequate processes in place to ensure that travel and other related expenditures were incurred only for government business, were acquired in an economical manner, and complied with established policies and procedures.

We conducted our audit work at Management Board Secretariat as well as at four ministries (ministries) with significant travel and other related expenditures: Community Safety and Correctional Services, Health and Long-Term Care, Natural Resources, and Transportation.

Our audit fieldwork, which was substantially completed in June 2004 and focused on expenditures incurred from April 2002 to November 2003, was conducted in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants and accordingly included such tests and other procedures as we considered necessary in the circumstances. Prior to the commencement of our audit, we identified the audit criteria that would be used to address our audit objective. These criteria related to systems, policies, and procedures that should be in place and were discussed with and agreed to by senior ministry management at MBS and at the four ministries.

We did not rely on internal audit to reduce the extent of our audit work because they had not recently conducted any audit work on travel and other related expenditures that impacted on our planned audit procedures.

# OVERALL AUDIT CONCLUSIONS

We found that the vast majority of travel and other related transactions were in accordance with established policies and procedures. However, we did note a number of exceptions in all the ministries we audited. We also noted numerous instances where claims submitted by employees were approved and paid even though these claims had either no support or inadequate support. Therefore, a significant risk remains that any transgressions in claims submitted by employees who are not complying with the Directive would likely not be detected.

As a result, we concluded that there is a need for more diligent and consistent processes for verifying and approving claims for travel and other related expenditures—a need that is heightened by the anticipated introduction of a centralized cross-ministry electronic claims processing system, under which paper documents may not be submitted to support the claim. We believe that many of the exceptions noted in our audit could have been prevented or appropriately addressed if there had been adequate review and approval of expense claims.

Some of the exceptions noted include the following:

- At two ministries, amounts billed directly to the ministry for travel, including air travel, were not reconciled to approved travel expenditures, thereby increasing the risk that air travel charges may be paid twice or that air travel charges for non-government-related purposes would not be detected.
- A number of examples of excessive expenditures were claimed and paid, often with little or no support. We found instances of extravagant meals and luxury car rentals and accommodations.
- There were instances where employees used the government corporate-travel charge card for expenses not related to government business travel and used their personal charge card for business expenses. As well, minimal action was taken to identify and address cardholders who used their travel card for personal expenses or who were seriously delinquent with their travel card payments.

We also noted that MBS did not obtain all information needed from travel service providers—such as the corporate-travel charge card provider and the corporate travel agency—to assist it in better managing travel and other related expenditures government-wide. In addition, the terms for earning rebates from the corporate-travel charge card provider were not realistically achievable.

# DETAILED AUDIT OBSERVATIONS

The Travel Management and General Expenses Directive was developed by MBS to:

- establish the principles, mandatory requirements and guidelines for acquiring all travel services including all ticketed transportation, accommodation, and car rental requirements, and for reimbursing employees for travel, accommodation, meals and hospitality, and conference expenses incurred on behalf of the government;
- ensure fair, consistent treatment of all employees required to travel on behalf of the government; and
- delegate to deputy heads total authority in administering these expenses within the provisions of the Directive.

Furthermore, this Directive states that the following principles should form the basis for employee travel decisions:

- expenses associated with an employee's duties should minimize costs and maximize the benefits to the organization;
- employees should be reimbursed for legitimate work-related expenses authorized by management;
- reimbursable expenses should support program objectives of the ministry;
- employees must make the most practical and economical arrangements for travel, meals, and hospitality;
- in evaluating travel options employees should consider total costs, including the costs of transportation, hotels, meals, taxis, and time spent travelling; and
- employees should make maximum use of the government's teleconferencing and videoconferencing facilities to reduce the need for employee travel for business meetings.

Because government practices for travel and other related expenditures are very interrelated, we made one forward-looking recommendation to address those areas where we noted the need for improvement. This recommendation, which can be found at the end of this report, addresses the need to establish effective processes for ensuring compliance with the Directive and other policies as well as for better managing travel services and costs.

## *CLAIMS PROCESSING*

### Review and Approval of Individual Claims

To be reimbursed for expenses incurred for government travel or other related activities, employees submit a signed expense claim in accordance with ministry procedures. Expense claims are then submitted to the appropriate senior person for approval and reimbursement.

To help ensure that amounts claimed by employees are appropriate and reasonable and for government-related business purposes, the Directive requires that employees retain original receipts to support expense claims in accordance with ministry procedures. As well, for unusual expenses or in cases where one employee is claiming an expense for another, the employee must provide an explanation or proof of having obtained prior approval.

In the ministries we visited, in many cases we questioned the adequacy of the approval process. We noted that travel and other related claims were generally approved, but in many instances original receipts were not attached nor was there any explanation for the missing receipts. Attached support was often limited to charge card slips or charge card statements (both of which only indicate the total amount paid with no detailed information on what was purchased). For example, we noted one employee who had claimed and been reimbursed for almost $3,100 in personal expenses—expenses that included a personal flight and non-business-related meal and accommodation charges—which were supported by only a charge card statement. As a result of our audit, this amount was being repaid by the employee. We also noted the reimbursement of a number of duplicate claims, including an employee who claimed and was reimbursed twice for a $352 claim, which was submitted once without any support and the second time with only a charge card statement. In addition, all the examples of excessive and otherwise unusual claims noted throughout this report had been approved prior to payment.

Without sufficient support, individuals approving claims cannot readily determine whether a claim is appropriate and reasonable and for legitimate government-related expenses.

## Support for Centrally Billed Costs

To streamline business practices, the Directive requires that ministries establish central billing systems that allow certain transportation expenditures, such as air travel, to be charged directly to a ministry's account rather than having employees pay these amounts and claim for reimbursement. As well as reducing administrative costs, this process enables the government to benefit from its exemption from paying the Goods and Services Tax (GST) on certain goods and services purchased for government purposes such as air, rail, and bus transportation charges billed directly to the province: these expenses are GST-exempt under an agreement with the federal government.

We reviewed the processes in place at three ministries to ensure that amounts charged to the centrally billed accounts were adequately supported in that they were for legitimate business purposes. We found that one ministry had a policy requiring that all flight charges listed on the centrally billed statement be supported by employees' airline tickets, which had been signed by their supervisor to indicate approval of the trip. Furthermore, the policy reminded employees not to claim centrally billed amounts on their individual expense claims. However, at the other two ministries, no process was in place to ensure the validity of centrally billed accounts. Without an adequate process in place, there is a risk that charges may be paid twice or that charges not related to government business may be paid and go undetected. For instance, we noted that one employee claimed and was paid $1,240 for a flight that had already been paid through a centrally billed account.

## New Electronic Processing

At the time of our audit, we noted that the processes in place for employees to file travel expense claims varied by ministry—some were completely paper-based, others fully automated. However, one ministry was piloting, and all ministries were expected to adopt by early in the 2005/06 fiscal year, a new electronic claims processing system called iExpenses. Under the new system, employees will complete and submit expense claims electronically, and the appropriate signing authority will electronically approve claims for payment. According to Ministry of Finance documents, the new system is expected to save time and paper, automatically check and calculate mileage, reduce the turnaround time for reimbursement, and provide better access to information.

We were informed that it would be up to each ministry to decide what supporting documentation, if any, the signing authority would review prior to approving the electronic claim for payment, as well as who would be responsible for keeping the supporting documentation. In addition, it would be up to each ministry to determine whether to implement any other verification processes, such as reviewing certain claims in detail. Although this is consistent with the Directive, which states "where ministries have electronic expense claim systems in place, approvals of travel and other business-related expenses shall follow ministry procedures," the lack of a consistent process for reviewing and approving travel expense claims increases the risk that any inappropriate claims would not be detected.

We acknowledge that an electronic claims processing system can offer efficiencies. However, as the supporting paper receipts may often not be submitted under electronic systems when the claim is submitted for review and approval, there is an increased risk that inappropriate expenses would not be detected and therefore paid. One possible compensating strategy is to periodically conduct an organization-wide review of a sample of electronic claims to ensure that claims are properly supported with receipts and, where they are not, ensure the responsible employees are held accountable. This work could be included, for instance, in the Internal Audit Division's annual work plan.

## TRAVEL AND OTHER RELATED CLAIMS

The Directive requires that employees make the most practical and economical arrangements for travel and other related activities and states that expenses should minimize costs and maximize the benefits to the province. This includes flying economy class, minimizing vehicle rental costs by renting the smallest required vehicle for the business task, booking reasonably priced accommodation, and exercising judgment and restraint at all times when buying meals. While we found that travel and other related expenditures were generally incurred in accordance with the Directive, a number of exceptions were noted as outlined in the following sections.

### Air Travel

According to the Directive, employees may travel by air when this is the most practical and economical way to travel. In addition, the Directive states that employees will normally be reimbursed for economy class airline tickets. Where costs exceed economy rates, employees must support their expense claim by providing an explanation or proof of prior approval from their immediate supervisor.

We noted that most individuals in our sample of claims reviewed were booking economy class tickets. However, at one ministry, we were informed that there was an informal policy allowing employees to travel executive class when a flight was over six hours in duration.

We believe this is an example of a ministry policy that can result in inconsistent treatment of employees from different ministries travelling under similar circumstances.

### Vehicles and Mileage

The Directive states that the rental of luxury and sports cars of any size is not permitted and that full-size or other large vehicles may only be rented when several employees are travelling to the same place or for other specific business purposes, provided that there is prior approval from the employee's immediate supervisor. We noted that while vehicle rentals usually complied with the Directive, there were exceptions. For example, one employee rented a Lincoln Town Car for three days at a total cost of $660. Other employees at the same ministry rented such vehicles as a Ford Explorer at up to $83 per day, a Nissan Xterra at $95 per day, and a Ford Mustang at $70 per day. At another ministry, an employee was reimbursed $425 for a one-day rental of a GM Envoy, which, we were informed, was needed to transport personal belongings due to a business relocation from North Bay to Sault Ste. Marie. Prior approval was not obtained, and reasonable documentation did not exist to support the need for these types of vehicles.

Under the Directive, employees are permitted to travel by taxi and be reimbursed when other means of transportation are not available, weather conditions so warrant, a physical disability applies, or the transport of baggage or parcels is required. In our review of ministries' files, we noted that the use of taxis generally seemed appropriate. However, and as a result of our audit work on the government purchasing card (see Section 3.11), at one ministry, we noted numerous limousine expenses between November 2002 and January 2004 that cost from $450 to $500 per trip, totalling $18,000, to take employees between North Bay and Toronto. We saw no documented explanation for these excessive charges, and while we were informed that more than one person was travelling, we only saw one instance of more than one person travelling on the billings from the limousine company. We were informed that the use of limousines to travel between North Bay and Toronto has since been discontinued.

The Directive states that individuals may use their personal vehicle for government business when a government vehicle is not available and use of the personal vehicle is more economical than a rental vehicle. The Directive strongly encourages employees to rent cars for business travel instead of using their own vehicle when the total distance to be driven in one day exceeds 250 kilometres. While we noted that most individuals adhered to this requirement, there were a number of cases in our sample where individuals charged mileage exceeding 250 kilometres a day for use of their personal vehicle, often without stating the purpose of the trip or where they went. For example, one employee claimed 484 kilometres (costing $141) for one day's travel without any documentation on the claim of where the individual went or the specific purpose of the trip. Another individual, who did document the destination and purpose of the trip, claimed 2,250 kilometres (costing $658) for six days' travel. A regional office at one ministry had adopted a policy for travel in the North Bay area that would reimburse individuals an equivalent-to-rental rate of $49 a day plus 7 cents a kilometre whenever individuals chose to use their personal vehicle for trips over 250 kilometres a day. The adoption of maximum reimbursement amounts on a province-wide basis similar to that followed by this regional office would help eliminate excessive mileage claims.

We also noted individuals who chose to use their personal vehicles to combine personal trips with government business, which resulted in, for example, an $810 mileage charge to Halifax and a $1,153 transportation charge to attend a business-related conference in Orlando (we were informed the transportation charge was equivalent to the non-refundable airfare quoted by the corporate travel agency).

## Accommodations

Employees are expected to book reasonably priced hotels and motels when travelling on government business. In addition, the Directive states that if family or friends share accommodations with an employee travelling for business-related purposes, the employee may claim for a single occupancy rate only. In exceptional circumstances, employees must obtain prior approval (where possible) from their immediate supervisor for alternative arrangements.

In our review of ministries' files, we noted that accommodation charges were generally reasonable, but we found some exceptions. For example, individuals travelling with their families claimed and were reimbursed accommodation charges, including $3,528 for a four-night stay at a Muskoka resort and $648 for a two-night stay in Toronto. In addition, individuals stayed in Toronto hotel suites that cost up to $400 per night. We were informed these suites were used to host meetings after conferences, but there was no evidence that other meeting space was not available at a more reasonable rate. There was no documented prior approval to support these expensive accommodation charges, yet all employee expense claims were approved and paid.

## Meals

The Directive states that decisions about business-related meal expenses must be based on the most practical, economical, and appropriate arrangements available. The Directive also states that employees shall be reimbursed for actual meal costs up to $34 per day including gratuities and taxes but that costs incurred for alcoholic beverages will not be reimbursed. If the $34 daily meal rate is exceeded, persons authorized to approve claims must ensure that expenses are supported by receipts and are reasonable for the locations where they were incurred. All claims for reimbursement of hospitality or business-related meals must be supported by: a brief description of the purpose of the activities and justification; a receipt for the amount paid detailing the amounts paid for food and beverages; and other items, including names, position titles, employers of the recipients of the meal and reason for their attendance.

We noted many meal claims that exceeded the $34 daily maximum meal rate with no explanation for the increase over the approved meal rate and no indication that anyone else attended. For example, one individual claimed $91 for meals for one day without any justification. In addition, three employees from one ministry claimed and were reimbursed for a $270 dinner, which included $57 in alcohol. We saw no explanation or documented prior approval for such excessive meal charges, yet the expense claims were approved and paid.

Other examples noted in our sample included a claim of $980 for dinner that had only the charge card slip attached with no further explanation, as well as a claim of $560 for dinner with no supporting documentation. We requested documentation supporting one of these claims and lists of people attending, but this information could not be provided. We noted a number of instances where the claims only stated the number of people attending, with no supporting documentation, and, when we investigated some of these claims, we found that fewer people actually attended than were purported to have attended. For example, one claim for a $380 dinner stated that 11 people attended, when only six people actually attended.

Although the supporting documentation requirements are clear, we noted far too many examples where claims lacked the required support but were approved regardless.

## Employee Recognition

According to the Directive, no public funds shall be spent for social events, including testimonial dinners and farewell functions. Nevertheless, the *Guide to Long-Service Employee Recognition in the Ontario Public Service, Best Practices and Minimum Standards for 20, 25, 30 and 35 Year Program*—an initiative supported by MBS—outlines certain recognition activities (for example, presenting a letter of congratulations) and suggests that ministries augment them with other common practices (for example, an annual lunch or dinner to honour long-service employees). Other than the recognition of long-service employees, no government-wide policies surrounding employee recognition have been developed, although we noted that some ministries had developed policies specific to their ministry.

We acknowledge that employee recognition activities are often a good human resources practice. However, we found that the extent and cost of employee recognition events beyond those for long-service employees varied among the ministries we visited. Based on our discussions with ministry management, more guidance would be helpful in this area.

## Miscellaneous

The Directive states that employees are eligible for reimbursement of miscellaneous work-related expenses incurred while travelling on government business. Such expenses include: gratuities for taxis; reasonable costs for one personal call home each night away; and reasonable, occasional child and dependant care expenses incurred when required to travel on short notice where travel is not a regular requirement of the job. Non-reimbursable expenses include personal expenses for recreational purposes, for example, video rentals, and expenses incurred due to the presence of friends or family members.

While most miscellaneous charges in the sample of travel claims we examined were in accordance with the Directive, some individuals claimed and were reimbursed for items that were questionable. For example, at one ministry, two individuals were reimbursed for car cleaning costs that seemed excessive for government vehicles—one individual was reimbursed $240 for two cleanings and another individual was reimbursed $120 for one cleaning. At another ministry a total of $557 in pet kennel costs during 2002 and 2003 was reimbursed to one employee who we were informed was single and had no one to look after the pets. We also noted a number of instances where individuals were reimbursed for movie rentals charged to their rooms while on travel status.

With respect to business-related calls, which are fully reimbursable, we questioned the reasonableness of some long-distance charges that were reimbursed. For example, one employee claimed $500 for long-distance calls during a 13-day trip to Halifax, while another employee claimed $165 for a two-day trip to Ottawa. We were informed that these costs were primarily incurred for computer dial-up charges to access work-related e-mail. We believe that there are more economical ways to accomplish this, such as establishing an electronically assisted call-back mechanism on an employee's computer so that long-distance charges are primarily incurred at the relatively inexpensive government rate rather than at a hotel rate.

## CONSISTENCY OF TRAVEL AND OTHER RELATED POLICIES AMONG MINISTRIES

All ministries are generally required to adhere to the Directive. However, each ministry is responsible for its administration of the Directive, and we noted that the ministries modify it to suit their particular needs. For example, one ministry had added a provision for a fourth meal under certain circumstances that is not provided for in the Directive; and, as discussed previously, another ministry had an informal policy of allowing employees to fly executive class for flights over six hours in length. Since each ministry may modify the travel requirements, there is a lack of assurance that all government employees who travel on government-related business are treated in a similar manner, as required under the Directive. In addition, developing unique rules in each ministry increases costs, as each ministry must create and maintain their own travel policies, and can hinder the ability to compare travel and other related costs between ministries.

## CORPORATE-TRAVEL CHARGE CARD

Each corporate-travel charge card is issued in the name of an employee and the cardholder is responsible for the card, including paying for all charges and meeting all terms and conditions. Employees are reimbursed for business-related expenses they have charged to their card when they submit an expense claim for these expenses. Employees are required to use the corporate-travel charge card where possible for payment of all business-related travel and other related expenses, as well as for obtaining cash advances at automated bank machines for anticipated out-of-pocket expenses that cannot be charged on the travel card. Should a cardholder default on his or her payments to the corporate-travel charge card provider, the provider (not the cardholder's ministry) is generally responsible for the deliquencies.

In addition, ministries may also have centrally billed corporate travel accounts with the corporate-travel charge card provider and are responsible for paying all charges on these accounts. Air, rail, and bus tickets for ministry employees should automatically be charged to the centrally billed accounts. In 2003, $58 million was spent through the corporate-travel charge card provider.

# Monitoring of Card Use and Services

To effectively manage the use of the corporate-travel charge card and the contract with the card provider it is necessary to monitor spending on travel and other related expenditures. Such information helps in monitoring compliance with travel policies (for example, using approved travel suppliers for car rentals and accommodation) and in identifying areas for future improvement.

At the ministries we visited we found a lack of information and analysis on travel card spending at the ministry level. We also noted that consolidated information on travel costs across ministries was not readily available. For example, little information was available on total travel card spending by vendor (for instance, by hotel or by car rental company). This information could be used to obtain better prices from vendors or ensure that agreements (for instance, for volume discounts and rates) were being adhered to by the vendor. In addition, we found no analysis of: the extent of personal use (for example, non-travel-related expenditures) of the corporate-travel card; the correlation, if any, between personal use of the travel card and delinquency; and the extent to which personal charge cards were used instead of the travel card. We attempted to obtain information from the travel card provider related to these issues, but they were unable to provide the data within the time period required to complete our audit work. We believe that obtaining and analyzing this data would assist Management Board Secretariat and the ministries to better manage travel costs.

# Rebate Terms

Rebates are cash incentives paid to a corporate "cardholder" (in this case, the government) by corporate card providers and are often based on the total dollar amount spent on the travel charge cards and/or particular types of purchases.

We reviewed the province's agreement with the corporate-travel charge card provider and noted that the rebate terms were so restrictive that it would be extremely difficult for the government to earn any rebate. For example, to earn one of the two potential rebates, the average amount spent per travel card had to exceed $4,500 annually, whereas prior years' actual usage averaged under $2,100 per card annually. To earn the other rebate, the province was required to spend at least $20 million annually on air travel even though prior years' actual air travel spending had never exceeded $16 million annually. As a result, no rebates have been earned by the province since the current contract commenced in 1999. We inquired with MBS as to whether rebates had ever been paid since 1986 (we were informed that the same corporate-travel charge card provider has won all contracts since that time), but were advised that information relating to previous contracts was not available.

In addition, we noted that if any rebates were earned they would first have to be used to offset all losses related to card non-payment and any resulting delinquency fees. All accounts remaining unpaid for 180 days after the billing date are written off by the travel card provider as a loss, which would be deducted from any rebates earned, even if the travel card provider subsequently receives payment on any of these accounts from the employees responsible.

## Issuance and Cancellation of Cards

Generally, travel charge cards are only issued to employees who incur travel and/or travel-related expenses. Typically, it is up to the applicable managers to decide which employees should receive a travel card.

Restricting the distribution of corporate-travel charge cards to individuals who travel is one way to help reduce delinquencies, card loss, and inappropriate use. We found that 28% of all issued travel cards had no charges during 2003. At the two ministries where we inquired, no periodic review of outstanding travel cards was performed to determine which individuals still required travel cards. In addition, neither ministry had an up-to-date list of who had travel cards, which in some cases led to individuals having more than one travel card. While there is no direct cost to the ministries of maintaining unused travel cards, the risk of loss and inappropriate use of the travel cards exists.

The Directive requires that employees leaving a ministry—whether through termination, transfer, or retirement—return their travel cards and that the travel card provider be notified to cancel the cards. At the two ministries where we conducted audit work on this issue, we found that travel cards were generally cancelled in a timely manner, but some exceptions were noted. For example, one travel card was not cancelled until 11 months after the employee left the ministry. We also noted that the ministries did not always receive confirmation that travel cards had been cancelled.

## Required Use of the Card

In rare circumstances, employees may use the corporate-travel charge card for personal expenditures. Similarly, a personal charge card may be used instead of the travel card in exceptional circumstances, for example, when the merchant does not accept the travel card. When employees use personal charge cards for business-related travel expenses or use their travel cards for personal expenses, it is difficult for MBS and ministries to track overall spending patterns. These patterns can help MBS better negotiate contracts with suppliers of travel services and may also assist in better budgeting of travel and other related expenditures.

We noted numerous cases of individuals using their personal charge cards. For example, one individual who had a travel charge card charged $6,900 to a personal charge card without any documented explanation why the travel card was not used. In addition, a number of employees at one ministry incurred car insurance costs of up to $32 per day because they used their personal charge card instead of their corporate-travel charge card, which includes insurance coverage. We also noted a number of instances where travel expenditures were charged on the government purchasing card, which is not to be used for travel and other related expenses.

Given the number of exceptions noted, we believe that MBS and the ministries must do a better job educating travel cardholders about their responsibilities concerning the travel card. All cardholders received a cardholder agreement from the travel card provider when a travel card was issued, but there was variation in the information provided to employees on the appropriate use of the card. One ministry followed a good practice of providing cardholders with a copy of the applicable sections of the Directive, which clearly outline the employee's travel card responsibilities, in addition to the cardholder agreement issued by the travel card provider.

Where employees had inappropriately used their travel cards or were seriously delinquent on their travel card payments, we were advised that there were no specific policies outlining any actions to be taken. Furthermore, we were advised by management that no action was normally taken against employees who inappropriately used their travel card or defaulted on their travel card payments. Rather, employees experiencing difficulties resulting from unpaid accounts were to deal directly with the travel card provider—an approach that is in accordance with the Directive. In 2003, the travel card provider wrote off almost $160,000 for non-payment of employee corporate-travel charge card accounts. Without effective policies for disciplinary action where serious or repeat problems arise, the risk of delinquency increases—for example, use of the card for personal expenses may lead to a higher balance on the card and to difficulty in paying off the balance. This may, in turn, reduce travel card rebates (a cash benefit earned based on spending and payment records) and distort information on travel spending patterns.

## TRAVEL ARRANGEMENTS

MBS has established a contract with a travel agency to provide services to employees travelling on government business. According to MBS documents, the contract with the corporate travel agency is meant to ensure that the ministries' travel requirements are met economically and according to consistently high standards. The corporate travel agency is to provide the province with information on travel spending patterns and assist in promoting and monitoring adherence to the province's travel policy—for example, by only quoting fares for economy class travel.

Only when travel is booked through the corporate travel agency can the government benefit from discounted fares that it has negotiated with an airline. The use of the travel agency also facilitates the application of the province's GST-exempt status on transportation charges.

Provincial employees in 18 cities across Ontario are required to book business travel through the corporate travel agency. Employees outside of these 18 cities are not required to deal with the corporate travel agency. However, since travel bookings are generally made by telephone, we question the decision to exempt anyone in the province from using the corporate travel agency and thereby lose the associated benefits.

According to the Directive, the travel agency is responsible for securing the lowest practical costs, but employees are expected to inform the travel agency if they are aware of lower rates that may be available. Notwithstanding a report for MBS that reviewed airfare booked between December 2001 and February 2002 and showed that the corporate travel agency was usually providing the lowest airfare, we were informed by several individuals at the ministries we visited that they had obtained lower airfares—for example, through the Internet—from providers other than the corporate travel agency. Our review of files confirmed that for various reasons, including price, the corporate travel agency was not always used. We also noted that other travel agencies used did not charge GST in many instances and often did not charge a service fee, which is applied when using the corporate travel agency. On discussing with senior officials why employees should use the corporate travel agency if a lower fare is available elsewhere, we were informed that there were many benefits, specifically: 1) one-stop location for booking travel, thereby increasing administrative efficiencies; 2) support for all reservations, ensuring employees are never stranded; and 3) cost controls, as employees are reminded of travel policy by the provider and as consolidated and detailed information is provided by the travel provider (including market share information, which can help the government obtain better prices).

Monitoring expenditures booked through the corporate travel agency can help MBS and ministries effectively manage travel expenditures and help identify areas for future improvement. For example, MBS has used information from reports on volume of business that were supplied by the corporate travel agency to negotiate a special pricing agreement with one airline. However, we found that the ministries we audited did not request or use travel agency reports to help them manage travel costs.

We also noted that ministries did not receive reports showing outstanding flight credits, which are earned when employees cancel their flights. The credits are generally non-transferrable to other employees. Nevertheless, if ministries obtained reports on unexpired credits, they could monitor that employees are using these credits if and when they next travel for government business and before credits expire. We were informed that this report was not requested and that the corporate travel agency is only made aware of credits if employees inform them. While employees are supposed to do so, we were informed that the data the travel agency has on unexpired credits is likely incomplete. In addition, no overall data was received on the number and dollar value of credits that expired unused. On reviewing work done by a legislative audit office in another jurisdiction, we noted that unused credits were a significant issue. We believe that maintaining and periodically reviewing this information would assist ministries in ensuring that credits were appropriately used for future travel.

## ACQUISITION OF TRAVEL SERVICE PROVIDERS

The province acquires travel services by issuing a request for proposals (RFP). In accordance with the MBS directives on procurement, the RFP includes the deliverables required and the method used to select a new provider.

We reviewed the process followed for choosing the corporate travel agency being used at the time of our audit and found that a competitive process was held and that the travel agency was selected in accordance with the steps outlined in the applicable RFP.

With respect to the selection of the corporate-travel charge card provider, we were unable to review the selection process as we were advised that these records had been misplaced during a reorganization of MBS and were therefore no longer available. We noted that one company has provided corporate-travel charge card services since 1986. Other available MBS documents that we examined indicated that other major Canadian banking institutions were not in a position to match the same benefits as the selected travel card provider, as they had concerns about some of the requirements outlined in the RFP, namely: joint and several liability, which limits the province's liability if the employee does not pay or misuses their card; the option of cash advances; and the requirement that employee credit checks not be performed. We believe it may be worth re-examining these requirements to obtain benefits in other areas. For instance, while the previous RFP generally made the charge card provider responsible for delinquencies, in 2003 the delinquencies amounted to only $160,000. Modifying certain requirements may result in more competitive and economical bids from alternative providers, especially with respect to rebate terms.

### Overall Recommendation

**To ensure that inappropriate expense claims, although relatively infrequent, are detected, Management Board Secretariat (MBS) should work with ministries to ensure expense claims—whether paper or electronically filed—have the required supporting documentation and an adequate level of review. This will be particularly important with the planned adoption of an electronic claims processing system in all ministries early in the 2005/06 fiscal year. To this end, MBS should establish, in conjunction with the ministries, a cost-effective process that provides assurance that ministries are complying with the *Travel Management and General Expenses Directive*. This process could include:**

- **adopting a government-wide policy, perhaps based on a dollar limit or type of claim, where supporting documentation must be submitted to the individual approving any claims filed electronically;**
- **conducting an annual government-wide review, perhaps by the Internal Audit Division, of a sample of expense claims and centrally billed accounts paid during the year to ensure they are supported by receipts and other required documentation; and**

- communicating clearly to employees the consequences of not following established procedures and, where exceptions are found, holding the responsible employee accountable.

To better ensure that the costs of travel and other related expenditures are practical and economical and that processes are in place across all government ministries for the fair and consistent treatment of all government employees who are required to travel, MBS should:

- require that ministries obtain Management Board of Cabinet's approval for any significant departures from the Directive that ministries make;
- in consultation with the ministries, identify and establish common government-wide guidelines for: employee recognition functions; travel-related, long-distance, computer dial-up charges; the issuance and cancellation of employees' corporate-travel charge cards; and the education of corporate-travel charge cardholders on the appropriate use of the travel card;
- evaluate the benefits of establishing maximum reimbursement amounts for government employees who choose to use their personal vehicles on government business;
- identify the travel information that would help ministries better manage their travel functions and work with the corporate travel agency and corporate-travel charge card provider to obtain this information;
- in the next competitive process for a corporate card provider, obtain competitive rebates that are based on a reasonable level of travel card spending and reconsider current requirements for deliverables on the travel card and gather information on the cost and benefits of alternative criteria and deliverables; and
- better monitor that the corporate travel agency is meeting its commitment to provide the most economical travel arrangements.

### *Management Board Response*

*Management Board Secretariat (MBS) agrees with the recommendation and is committed to ensuring that cost-effective controls are in place to ensure effective oversight of travel and travel-related expenditures. In that context, MBS is working with the respective ministries on specific findings to ensure that action is taken to address all the exceptions to proper procedures identified by the Provincial Auditor, including full repayment and other disciplinary action as appropriate.*

*While the current corporate-travel charge card and corporate travel agency programs have achieved significant benefits for the province, MBS has a number of additional initiatives underway to strengthen controls over travel and travel-related expenditures.*

*A new* Travel Management and General Expense Directive *will be recommended to the Management Board of Cabinet; the directive will require*

***that any ministry seeking to create its own travel policies must receive approval from the Management Board of Cabinet before doing so.***

***The electronic expense management system currently being implemented strengthens the management of the travel claims process and includes enabling managers to identify centrally billed expenses in order to reduce the risk of duplicate payment of travel expenses.***

***MBS will undertake a comprehensive education and communication initiative around travel and expense management. This will focus on policies and procedures with respect to expense claim submissions and approvals, documentation requirements, managing exceptions and special circumstances, and the consequences of failing to follow established procedures. MBS will also work with ministries to facilitate regular oversight to enhance compliance with these requirements.***

***MBS will work with Cabinet Office to develop guidelines regarding the use of public funds for employee recognition and gifts for official visitors and speakers at ministry events. MBS will also establish government-wide procedures for travel-related long-distance computer dial-up charges.***

***MBS will also strengthen the process for issuance and cancellation of an employee's corporate-travel charge card and will undertake a comprehensive education and communication initiative on the use of the corporate-travel charge card. MBS will also review the appropriateness of establishing maximum reimbursements for employees using personal vehicles on government business.***

***As part of the procurement process to establish a new contract for a travel product, MBS has included criteria in the request for proposals to establish a rebate program with the successful travel card provider. In addition, the recently established travel agency contract includes enhanced reporting requirements and mandates that the vendor allow third-party audits to ensure that the corporate travel agency is meeting its obligations to provide the lowest fare at the time of booking. MBS will work with both the travel card and travel agency providers to ensure that information is available to help ministries strengthen their management of travel and travel-related expenditures.***

## ONTARIO MEDIA DEVELOPMENT CORPORATION AND MINISTRIES OF CULTURE AND FINANCE

# 3.13–Media Tax Credits

## BACKGROUND

The Ontario Media Development Corporation (OMDC) was established in 2000 as an agency of the Ministry of Culture and is a continuation of the Ontario Film Development Corporation. Its mandate is to "stimulate employment and investment in Ontario" through the use of business innovation, marketing, provincial tax credits, and other initiatives in support of Ontario's cultural media industries.

One of the ways the OMDC fulfills its mandate is by offering refundable tax credits through Media Tax Credits. Such tax credits reduce the amount of Ontario corporations tax that the taxpayer owes. If no Ontario taxes are payable, the full amount of the tax credit is paid to the taxpayer. The Media Tax Credits operate under the provisions of Section 43 of the *Corporations Tax Act*.

The first Media Tax Credit instituted was the Ontario Film and Television Tax Credit, introduced in 1996. Media Tax Credits now comprise six different types of tax credits covering film and television, sound recording, book publishing, computer animation and special effects, and interactive digital media. The OMDC, the Ministry of Finance, and the Ministry of Culture share the responsibility for the Media Tax Credits.

Specifically, the OMDC assesses applications for the purpose of certifying that expenditures are eligible for tax credits and issues to approved applicants certificates of eligibility, which the applicants include with their tax returns when claiming the tax credit. The Ministry of Finance processes claims and conducts audits as necessary. The OMDC and the Ministry of Finance are thus jointly responsible for ensuring that the tax benefits of the Media Tax Credits are granted only to qualifying corporations for eligible expenditures. The Ministry of Culture oversees the research and development of policy proposals for the Media Tax Credits.

The six tax credits and types of eligible expenditures are identified in the following table.

**Media Tax Credits**

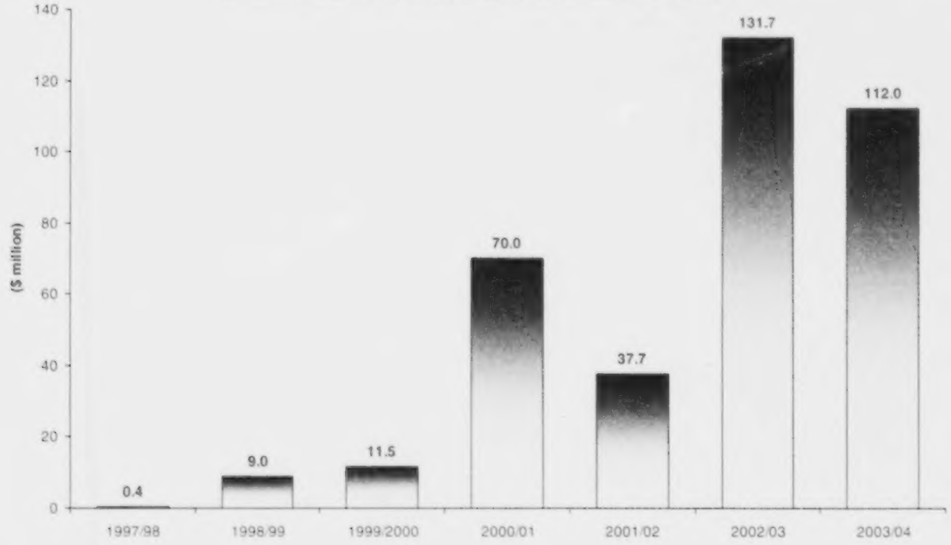
| Name of Credit | Expenditures Credited |
|---|---|
| Ontario Film and Television Tax Credit (OFTTC) | 20% of eligible Ontario labour expenditures by Canadian-owned production corporations located in Ontario |
| Ontario Production Services Tax Credit (OPSTC) | 11% of eligible Ontario labour expenditures by Canadian-owned or foreign-owned production corporations located in Ontario |
| Ontario Computer Animation and Special Effects Tax Credit (OCASE) | 20% of eligible Ontario labour expenditures for digital animation or digital visual effects for film and television production by Canadian or foreign-owned corporations located in Ontario |
| Ontario Book Publishing Tax Credit (OBPTC) | 30% of eligible Ontario pre-press, printing, marketing, and book publishing expenditures—up to a maximum tax credit of $30,000 per book—by Canadian corporations located in Ontario |
| Ontario Sound Recording Tax Credit (OSRTC) | 20% of eligible Ontario production, marketing, and distribution expenditures by Canadian-owned corporations that either have been located in Ontario for at least 24 months or were sole proprietorships or partnerships prior to incorporation |
| Ontario Interactive Digital Media Tax Credit (OIDMTC) | 20% of eligible Ontario labour, marketing, and distribution expenditures incurred on or after July 1, 1998 by Canadian-owned or foreign-owned corporations located in Ontario |

*Prepared by the Office of the Provincial Auditor*

The six tax credits are "refundable credits," which means that they are used to reduce the amount of any Ontario taxes payable, with any remaining balance paid to the taxpayer.

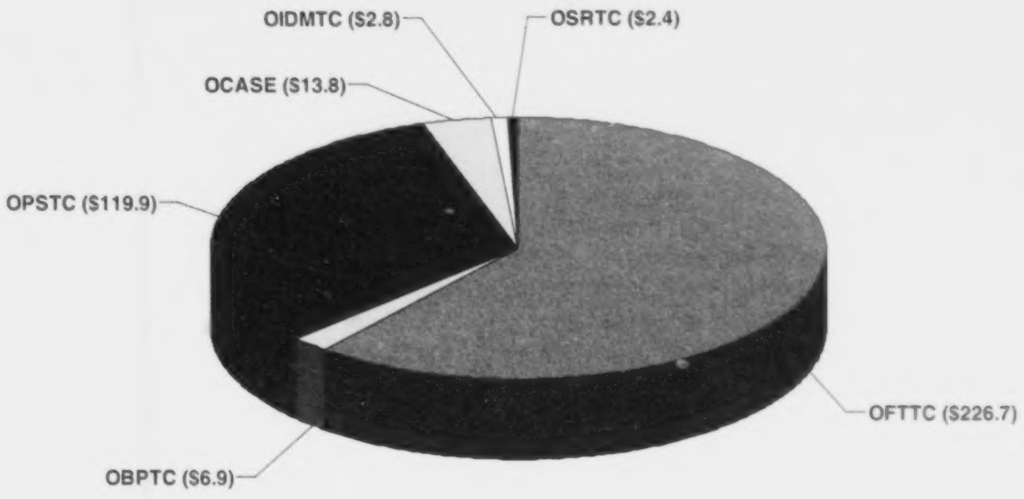
Ontario corporations have claimed these tax credits in increasing numbers over the past few years, reaching around $130 million in the 2002/03 fiscal year. As at March 31, 2004, approximately $372 million of tax credits had been approved and issued since the inception of the Media Tax Credits. The following bar graph and pie chart show the increases in credits approved and the breakdown of tax credits approved since the Media Tax Credits began.

Amounts of Media Credit Approved and Issued Since 1996



*Source of data: Ministry of Finance*

**Breakdown of Cumulative Value of Tax Credits Approved and Issued, 1996–2004 ($ million)**



*Source of data: Ministry of Finance*

As the pie chart shows, the OFTTC and the OPSTC represent the two largest amounts of tax credit dollars approved (approximately 61% and 32%, respectively, of the total). Typically, a credit such as the OFTTC finances about 8% of a project such as a prime-time television drama series, as shown in the following table.

**Typical Production Budget for a Television Drama Series**

| Source of Financing | Amount Contributed ($ million) | % of Total |
|---|---|---|
| broadcaster | 2.9 | 29 |
| Telefilm Canada | 2.2 | 22 |
| distributor | 2.1 | 21 |
| Federal Film & Television Tax Credit | 1.0 | 10 |
| **Ontario Film & Television Tax Credit** | **0.8** | **8** |
| Canadian Television Fund | 0.6 | 6 |
| Independent Production Fund | 0.3 | 3 |
| producer | 0.1 | 1 |
| **Total** | **10.0** | **100** |

*Source: Ontario Media Development Corporation*

Eight of the other nine Canadian provinces, the federal government, and some jurisdictions outside of Canada also provide tax incentives of various scopes and sizes to encourage cultural industries to invest in their jurisdictions.

# AUDIT OBJECTIVES AND SCOPE

The objectives of our audit were to assess whether the Ontario Media Development Corporation (OMDC), the Ministry of Finance, and the Ministry of Culture—which share the responsibility for Media Tax Credits—had collectively established adequate procedures to:

- ensure tax credits were provided only for eligible expenditures actually incurred by corporations located in Ontario; and
- measure and report on the effectiveness of the Media Tax Credits in meeting their stated goals and objectives.

The scope of our audit included an examination and analysis of a random sample of eligibility and claim files, as well as interviews with appropriate staff at the OMDC and at the head office of the Ministry of Finance and a review of the administrative procedures of each. We also reviewed relevant information and held discussions with key staff at the Ministry of Culture.

Prior to the commencement of our audit, we identified the audit criteria that would be used to address our audit objectives. These criteria were reviewed and agreed to by senior management of the OMDC and the two ministries.

Our audit work covered applications processed during the period from April 1, 2002 to December 31, 2003. Our audit was performed in accordance with the standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

We did not rely on internal auditors, because no internal audit reports had ever been issued relating to the Media Tax Credits by either the Ministry of Culture or the Ministry of Finance.

# OVERALL AUDIT CONCLUSIONS

A number of constructive steps have been taken in recent years to mitigate the potential risk of tax credits being incorrectly determined as a result of fraud or abuse with respect to Media Tax Credits. For example, we noted that improvements in tax credit administration have been identified and implemented as a result of work done with other Canadian jurisdictions. In particular, policies and processes that reduce risks of tax-credit abuse —such as those identified in a 2001 review of similar media tax credits in Quebec—have been strengthened. However, improvements could be made in measuring and reporting on the effectiveness of the Media Tax Credits in achieving their objectives. Some of our major observations and findings were as follows:

## *OMDC*

The OMDC had put in place reasonable procedures for assessing the eligibility of tax credit applications for the six tax credits.

However, eligibility applications were not processed in a timely manner, which resulted in delays in the issuing of certificates of eligibility and a significant backlog in tax credit applications. About one-quarter of the applications we reviewed were approved more than 12 months after receipt. Excessive delays in approving applications can be detrimental to many production companies—which often depend on financing from tax credit refunds to complete their projects—and could ultimately discourage production companies from investing in Ontario. Furthermore, the significant backlog in tax credit applications increases the risk that OMDC staff will rush to review and approve applications and issue certificates of eligibility and be less thorough as a result.

## *MINISTRY OF FINANCE*

The delays at the OMDC in determining eligibility were compounded by delays at the Ministry of Finance in processing tax credit claims. In some cases, companies waited for their full refunds for over a year after filing their corporations tax returns.

We also noted that there was no documented evidence that the Ministry selected claims for audit verification using a risk-based approach, where those claims with the highest assessed risk would be targeted for audit.

## MINISTRY OF CULTURE, MINISTRY OF FINANCE, AND OMDC

While these three parties, which are responsible for the Media Tax Credits, had developed some general high-level performance measures, we noted that the establishment of more specific indicators of economic and cultural performance would better measure the effectiveness of the media tax credits in achieving their objectives. Each party's responsibilities with respect to performance measurement should also be more clearly defined.

# DETAILED AUDIT OBSERVATIONS

## THE TAX CREDIT CLAIM PROCESS

### Obtaining a Tax Credit

The sequence of steps whereby a corporation obtains a cultural tax credit is as follows:

- A qualifying corporation must apply to the OMDC for a "certificate of eligibility," which certifies that both the corporation and the activities being claimed are eligible. For film and television productions, eligible corporations can apply for the two applicable tax credits—the OFTTC and the OPSTC—either during or at the end of production. Applying for these credits during production is allowed primarily because film and television productions can take more than a year to complete. The other four credits can be applied for only once the project has been completed and there is a tangible finished product.
- When the OMDC receives an application, its Tax Credit Department evaluates the corporation's eligibility based on criteria established by legislation. The OMDC either approves the application, in which case it issues a certificate of eligibility to the applicant and a copy of the certificate to the Ministry of Finance, or notifies the applicant that the application has been rejected.
- If the application is approved, the eligible corporation claims the tax credit when filing its Ontario corporations tax return with the Ministry of Finance, including with it the certificate of eligibility and a claim form.
- If the Ministry of Finance has received a matching copy of the certificate of eligibility from the OMDC, it processes the claim, including conducting a desk or field audit if necessary, to verify evidence supporting the claimed expenditures.
- If the Ministry of Finance accepts the claim, it issues a refund cheque or applies the credit to income taxes payable. In the case of the OFTTC and the OPSTC, the Ministry's intent is that up to 85% of the estimated refund can be issued on a "fast

track"—within six weeks of a company's filing of its tax return—provided that certain criteria are met.

## Effects of Credits Obtained

Whether a tax credit results in a refund or a reduction in taxes payable depends on the amount of taxes a company owes the government. Three scenarios for a company applying for an $800,000 tax credit are shown in the following table.

**Effect of Tax Credit on Taxes Payable**

| | Scenario 1 | Scenario 2 | Scenario 3 |
|---|---|---|---|
| | Company owes nil in taxes ($) | Company owes $100,000 in taxes ($) | Company owes $1,000,000 in taxes ($) |
| Media Tax Credit allowed | 800,000 | 800,000 | 800,000 |
| taxes payable | – 0 | – 100,000 | –1,000,000 |
| refund issued/(taxes payable) | 800,000 | 700,000 | (200,000) |

*Prepared by the Office of the Provincial Auditor*

According to data from the Ministry of Finance, since the Media Tax Credits began approximately 93% of all claims have resulted in cash refunds. The reason the percentage is so high relates to a common industry practice whereby corporations undertaking television or film productions usually create a separate company for each production undertaken in order to limit liability. During production, the production company accumulates production costs but has little or no offsetting revenues—revenue generated from the finished product usually goes to the distributor or broadcaster holding the distribution rights. Thus, most of the companies applying for tax credits are not in a taxable position, and tax credits granted generally result in a direct payment of cash.

## *OMDC'S ASSESSMENT OF ELIGIBILITY*

## Internal Controls

Strong internal controls are essential for efficiently and effectively administering these tax credits. Such controls ensure that only eligible taxpayers that incur eligible expenditures receive a tax credit. Without them, the risk of losses arising from fraud or abuse is greatly heightened.

The OMDC is responsible for assessing the eligibility of tax credit applications based on criteria specified in the legislation. The OMDC bases its assessment on documented eligibility information provided by the applicant. For film and television production companies, the key documentation to be provided includes: an audited statement of production costs prepared by an independent accountant or—for productions costing below an established threshold—a review engagement report (a report that provides moderate, but not audit-level, assurance); and a complete, detailed listing of production costs, including the names and addresses of all individuals or companies that participated in the production, as well as the salaries, fees, and other payments made to those individuals or companies. A number of documents are also required from non-production companies, including publishing and distribution agreements and residency declarations.

The OMDC issues to approved applicants certificates of eligibility that assert the product's eligibility and state the estimated amount of the tax credit.

We noted that the OMDC had developed policies and procedures to minimize the risk that tax credits could be incorrectly determined as a result of abuse and to ensure consistency in evaluating tax credit applications. These include detailed checklists for each tax credit that must be completed for all applicants; review of completed applications to ensure the reasonableness of the evaluation of eligibility and tax credit calculation; "precedent binders" that contain claim examples to help staff evaluate applications consistently; and a formal policy whereby the eligibility certificates must be issued before a tax credit can be claimed. Another prudent policy is that the corporation must spend its own funds before it can apply for a tax credit.

Notwithstanding such policies, we observed the following:

- The OMDC did not have criteria in place for identifying high-risk applications. Rather, all applications were simply placed in a queue and picked up for processing by the next available assessment officer. There was no guideline on what is the appropriate knowledge or experience level that is required to process the more complex or high-risk applications. Sound, risk-based analysis would be useful to determine the level of expertise required for identifying and processing high-risk applications.
- Applicants for the OFTTC were requested to provide audited financial information, while applicants for the OPSTC were not, even though the amount of OPSTC tax credit being applied for was similar to, and in some cases higher than, the amount of OFTTC tax credit applied for; and in the 2002/03 fiscal year, OPSTC claims amounted to $112 million, which represented more than 30% of total claims.

## Timeliness of Processing

Timeliness is also a key characteristic of an efficient tax administration system. Excessive delays in approving applications could be detrimental to many production companies, which often depend on financing from the government to complete their projects—as illustrated previously, federal and provincial tax credits taken together account for nearly 20% of a typical production budget. We found the following:

- The OMDC had not processed eligibility applications in a timely manner. For example, approximately half of the sample of files we reviewed were approved more than six months after the OMDC had received the application, and about one-quarter of these applications were approved more than 12 months after receipt. According to management, delays in processing eligibility applications were the result of delays caused by applicants not sending in all the required documentation, an increasing volume of applications, and limited staff resources.
- The OMDC was making a concerted effort to reduce its backlog. For example, even though the number of applications received by the OMDC increased from 307 in the 1999/2000 fiscal year to 1,086 in the 2002/03 fiscal year and the number of assessment officers remained fairly constant, management indicated that the application processing cycle had been reduced from 27 weeks in the 2002/03 fiscal year to about 19 weeks at the time of our audit. However, we noted that in a number of other Canadian jurisdictions, the average standard for completing the eligibility assessment process is approximately 12 weeks. We further noted that, based on client satisfaction surveys that the federal government conducted on the federal tax credit program, this average processing time of 12 weeks was in line with industry expectations.

### Recommendation

**To better manage the risk of non-compliance and improve the turnaround time for applications, the Ontario Media Development Corporation (OMDC) should:**

- **consider each application's complexity and the risk of non-compliance when assigning assessment staff to review applications; and**
- **expedite the claim review and approval process without sacrificing the key verification and approval processes.**

### *Ontario Media Development Corporation Response*

***The OMDC ensures that the risk of non-compliance is low by making certain that all analysts are capable of assessing complex files. OMDC analysts are all at the same job classification level and are required to meet the skills and knowledge requirements of the job classification. Through performance planning and regular monitoring of performance goals, analysts maintain knowledge of current industry practices and trends.***

***The OMDC previously conducted an initial review to "stream" more complex files to different analysts. However, the system was ineffective, as it proved impossible to determine in a cursory review if a file was complex. There are no consistent indicators for the complexity of files. For instance, budget size was not a reliable indicator, as low-budget films can have very complex financing arrangements.***

***Although the OMDC's turnaround has been reduced significantly since the introduction of the tax credits, the OMDC has not sacrificed due diligence in order to streamline processing. As well, there have been no fraudulent claims due to OMDC oversight or error.***

***The files sampled for the Provincial Auditor's report include taxpayer delays in submitting necessary documentation to support the claim. In many cases, the OMDC must wait for weeks for applicants to substantiate their claim. OMDC's turnaround time has decreased since the audit was completed as a result of internal streamlining and measures taken to address inadequate staffing resources. For the first three months of the 2004/05 fiscal year, the average turnaround time for the 262 projects that were issued certificates was 15.5 weeks, as compared to 27 weeks in 2002/03 and 19 weeks at the time of the audit.***

***The OMDC plans to continue to reduce the queue through internal streamlining and co-operative efforts with the Ministry of Finance and federal agencies. One of the improvements will be to adopt better risk assessment procedures. Better risk assessment will help to focus efforts on the key issues in each application without causing risk that a fraudulent claim would be certified.***

# *MINISTRY OF FINANCE'S PROCESSING OF CLAIMS*

## Timeliness of Processing

The Special Assessment Unit (SAU) of the Ministry of Finance's Corporations Tax Branch has overall responsibility for ensuring that eligible claims that comply with the rules set out in the legislation are appropriately verified and paid on a timely basis. Ministry policy requires that interest be paid to taxpayers on amounts to be refunded.

The SAU typically processes a corporation's tax credit claim only if the corporation has attached to its Ontario corporations tax return a schedule outlining its cultural media tax credit claim; and a matching certificate of eligibility has been received from OMDC. The SAU reviews or audits reported labour and production costs (to support the actual payments made by the corporation for eligible activities); and reviews the residency of the cast and production crew (to ensure that production is based in Ontario).

Recognizing the serious backlogs and the growing number of complaints from the industry, in April 2002 the Ontario government announced a new, faster, and easier process designed to make Ontario more attractive to film and television producers. Under the new system, film and television producers are to receive their tax credits earlier, thus minimizing high interim capital and financing costs. Both domestic and foreign film and television producers are to be issued up to 85% of their estimated refund within six weeks of filing their tax return and certificate of eligibility. Similar standards were not established for the other tax credits. The amount of the tax credit refund advanced under this fast-track system is at the discretion of the SAU auditor after performing a preliminary assessment of certain risk factors (discussed in the next section).

Our review of a sample of tax credit claims processed by the SAU over the last two years revealed that the processing backlogs at the OMDC, described in the preceding section, are compounded by processing and payment delays at the Ministry of Finance. For example, significant delays in receiving certificates of eligibility from the OMDC had resulted in even greater delays in processing tax credit claims. About 65% of the claims we reviewed had not received the full refund more than six months after they were filed. In some cases, corporations waited more than a year after filing their tax return to get the full refund. According to ministry officials, only about 25% of those of our samples that were eligible under the fast-track system received partial refunds within the fast-track six-week time frame.

**Recommendation**

**To enhance the efficiency and effectiveness of the Media Tax Credits and to encourage corporations that depend on cultural media tax credits to invest in Ontario-based productions, the Ministry of Finance should ensure that eligible claims are processed in a more timely manner.**

***Ministry of Finance Response***

***Partial refunds were introduced in May 2002. At that time, there was a backlog of claims. The Ministry put processes in place to issue partial refunds and clear the backlog.***

***Currently, the Ministry is issuing 75% of the partial refunds within the target six-week period and 87% in eight weeks. In addition, the Ministry and the OMDC are discussing concurrent reviews of tax credit claims to enhance procedures and further expedite tax credit refunds.***

## Audit Selection

In the cultural media industry, low profits and lack of tangible assets often deter private investment and lead to low company valuations. In addition, companies may—either deliberately or inadvertently—misrepresent their labour and production costs to take advantage of the provincial tax credits. Furthermore, the production companies receiving refund cheques usually have little or no taxable income and are often dissolved shortly after production ends (having been established for each new project solely to limit liability for the production). These factors make the Media Tax Credits inherently risky to administer.

Therefore, to ensure that tax credits are allowed only for eligible expenditures, the Ministry of Finance's audit function should have a process in place to rank all the claims filed on the basis of risk, targeting those claims with the highest assessed risk.

We were advised that SAU managers assess all claims for risk when the claims are filed. Risk assessment criteria include the size of the claim; the results of audits in prior years; whether the claim is from a first-time or an existing corporation; and whether the production cost statement has been audited. On the basis of the risk assessment, claims are accepted as filed, assigned for desk audit, or assigned for field audit, and audit staff resources are allocated accordingly. "Accepted as filed" means that the Ministry performs only a cursory review of the claim, consisting of ensuring that the required supporting schedules are attached, the information in the schedules agrees with the financial statements, and there is a matching certificate of eligibility. A "desk audit" is a detailed verification of additional selected information requested from the taxpayer and is performed on the Ministry's premises. A "field audit" is conducted at the taxpayer's premises and includes a more detailed examination of selected records. Once the claim is categorized, the auditor further reviews the documentation in the file and completes a Preliminary Assessment Form, resulting in either a confirmation of the initial allocation or a re-assignment of the claim.

According to our review of SAU audit coverage, as of March 31, 2004, the Ministry had received approximately 2,100 claims, for taxation years from 1996 (when the Media Tax Credits began) to 2003, involving approximately $420 million in tax credits. Our analysis of the level of review of the 2,100 claims revealed that the percentage of claims accepted as filed had more than doubled from the 2001/02 fiscal year to the 2002/03 fiscal year. We were advised that the primary factor contributing to the Ministry decreasing the level of audit activity was the maturity of the Media Tax Credits, which has led to better knowledge of the Media Tax Credits both by the industry and by ministry auditors.

Based on our review of a sample of completed claim files, we concluded that ministry auditors performed sufficient work to support payments for most of the claims we reviewed that were either field- or desk-audited. However, we did have the following concerns with the Ministry's claim verification processes.

- We found no documented evidence of risk assessment by senior managers in the sample of files we reviewed, nor could we determine the basis for allocating audit resources to the different types of tax credits. Almost half of the files we reviewed did not contain the required Preliminary Assessment Form.
- There was often insufficient documented analysis or support for accepting claims as filed. For example, on several occasions, SAU auditors noted that because production cost schedules agreed with the financial statements, no further work was

necessary on their part before releasing payment on a claim. However, we noticed that the statements were in fact unaudited financial information and therefore full reliance on them was not justified. Although many of the claims that were accepted as filed were for smaller dollar amounts, we believe that some audit coverage of smaller claims is necessary to encourage broad compliance throughout the industry—a principle that has been accepted by the Ministry for years in administering its taxation programs.

- There was little information summarizing the results of field audits. Such summary information—which is gathered for other taxation programs administered by the Ministry—might indicate that certain types of expenditures or tax credits are higher risk than others.

### Recommendation

**To enhance the effectiveness of the Ministry of Finance's audit function, the Ministry should ensure that:**

- **claims are selected for audit based on assessed documented risk and stated ministry policy; and**
- **the results of audits are summarized to assist with the identification of possible trends warranting increased vigilance.**

### *Ministry of Finance Response*

***The Ministry has implemented a process using assessed risk and established policies to determine which files are selected for audit. A working paper is now contained in all files to document this process.***

***The Ministry is setting up a process for identifying possible trends based on audit results.***

## *PERFORMANCE MEASUREMENT*

Good performance information is an essential management tool that strengthens accountability for results, informs public officials and other decision-makers, influences policy and expenditure decisions, identifies areas needing attention and improvement, and highlights the differences that a program or service has made. Performance information enables decision-makers to assess the efficiency and effectiveness of government initiatives.

Key to successful performance management is the establishment of performance standards and targets against which to measure progress towards the achievement of objectives and performance expectations. These two elements of performance management can be characterized as follows:

- Standards are predefined, quantifiable levels of performance that are commonly understood and agreed upon and are the basis for judging or comparing actual performance. Standards may derive from legislation, regulations, the results of comparisons with other jurisdictions, or commitments made to improve year-over-year results.
- Targets indicate whether program management proposes to meet or exceed the standards of performance. Targets should be clear and quantifiable and should define the time frame in which commitments will be achieved. They are used as a key tool to drive, measure, improve, and control performance.

Once standards and targets have been established, a system is needed to collect, analyze, and report the required performance information.

The six media tax credits were each designed to meet different policy objectives. As refundable tax credits, they are akin to a spending program delivered through the tax system. Since the introduction of the Media Tax Credits in 1996, over $372 million in tax credit payments had been approved and issued. Typically, the general objectives of tax credits are announced in the budget and include specific economic and cultural contributions to be made. However, we observed that, in the case of the Media Tax Credits, no specific performance standards or targets had been established that would enable the determination of whether the stated objectives were being met.

For example, a budget-update press release in 1997 announced: "to build on initiatives introduced in the 1996 Ontario Budget and attract highly-paid, leading-edge jobs and investments to Ontario, the 1997 Ontario Budget introduced a number of tax measures in support of artistic activity and excellence in the Province." However, no clear, quantifiable performance expectations have been established to determine the degree of success in attracting jobs and investments and supporting artistic activity and excellence. Such standards might have included a specific number of jobs to be created and specific cultural benefits to be achieved.

We did note that the competitiveness of the Media Tax Credits relative to tax credits offered in other jurisdictions inside and outside Canada was monitored. In addition, some general industry statistics—such as the number of workers employed in the Ontario film and television production industry—were compiled, using industry and Statistics Canada data. Also, OMDC data were used to compile statistics on the number of certificates of eligibility issued and the value of productions utilizing tax credits. However, no statistics were compiled to demonstrate the impact caused specifically by the tax credit initiatives as opposed to other factors, such as the value of the Canadian dollar or the availability of production facilities.

We also observed that it was not clear how the responsibilities associated with establishing and monitoring performance standards and targets were to be shared among the OMDC, the Ministry of Finance, and the Ministry of Culture. Nor was there consensus as to what should be measured. For example, the Ministry of Finance tended to emphasize measuring the achievement of economic objectives, such as those relating to value of production, while the Ministry of Culture emphasized measuring the cultural contributions of the tax credits. Effective performance measurement was also hampered by legislation that limits the Ministry of Finance's ability to share confidential taxpayer information.

While the OMDC, Ministry of Finance, and the Ministry of Culture finalized a new Memorandum of Understanding that sets out the statutory and administrative responsibilities of the three parties, the memorandum does not address our concerns relating to performance measurement and information-sharing.

**Recommendation**

**In order to ensure that the Media Tax Credits are achieving their objectives, the Ontario Media Development Corporation, the Ministry of Culture, and the Ministry of Finance should work collaboratively to:**

- **develop specific performance standards and targets for the Media Tax Credits; and**
- **update the Memorandum of Understanding to more clearly define each party's responsibilities with respect to performance measurement and obtaining the information needed to monitor and report on performance.**

***Response from the Ministries of Culture and Finance and the Ontario Media Development Corporation***

***As part of its overall commitment to increase fiscal transparency and accountability, the Ontario government has introduced the*** **Fiscal Transparency and Accountability Act*****, which, subject to passage by the Legislature, will require the government to annually publish information about the estimated cost of expenditures made through the tax system.***

***While it may be difficult to isolate and measure the impact of a specific tax credit, especially since there are many external factors (such as the value of the Canadian dollar) that may influence the activity targeted by a particular tax credit, the Ministry of Finance, the Ministry of Culture, and the Ontario Media Development Corporation (the parties) will work together to explore ways in which this recommendation can be implemented.***

***The parties currently work collaboratively to monitor the media tax credits, including take-up of the credits, reviewing Ontario's competitiveness and employment growth in the targeted industries.***

***The parties will update the Memorandum of Understanding to clarify respective roles and to ensure they work collaboratively to optimize the level of monitoring of the media tax credits.***

## OTHER MATTER

### Mitigating the Risk of Abuse of the Media Tax Credits

In recent years, there has been concern expressed in the media about the administration of media tax credits. For example, in 2000, more than 100 film and television companies were selected for audit by Revenue Quebec following the discovery of widespread misuse and abuse of that province's tax credit subsidies.

The Quebec investigation resulted in a report containing a number of recommendations for reducing the risk involved in administering Quebec's cultural media tax credits. In the following table, we compare Ontario's current situation to the more significant recommendations in the Quebec report relevant to Ontario.

| Quebec Recommendation | How Ontario Compares |
|---|---|
| • Have le ministère du Revenu[1] (MRQ) and la Société de développement des enterprises culturelles[2] (SODEC) develop an information kit for production companies to ensure that companies are well informed of their rights and obligations. The kit could contain, among other things, the current MRQ and SODEC forms. | Comparable process in place. |
| • Have MRQ and SODEC develop an audit guide to set the presentation standards for reporting film and television production costs and give specific directives to external auditors. | Comparable process in place. |
| • Evaluate the feasibility of instituting an early audit procedure for refundable tax credits for film and television production. | Comparable process in place. |
| • Require that production companies that request refundable tax credits for film and television production submit detailed statements of expenditures to MRQ to allow establishment of better pre-payment controls. | Comparable process in place. |
| • Require that production companies issue statements for all of their productions listing the amounts paid to persons who occupy key positions described in the Regulations. | Comparable process in place. |
| • Give MRQ the power to audit compliance with conditions of certification and set up agreement for the exchange of information between MRQ and SODEC to facilitate the exercise of this power. | Comparable process in place. |
| • Amend the *Loi sur le ministère du Revenu*[3] to cover refundable tax credits for film and television production and give MRQ the power to communicate tax information to SODEC for certification purposes. | Comparable measure in place. |
| • Establish a network of multidisciplinary teams within MRQ—combining auditors, information specialists, and immediate assessment staff—that specialize in tax credits affecting the cultural sector. | Comparable process in place. |
| • Require that companies submit a request for final certification to SODEC within 18 months after the date of recording the master track or trial print. | Measure in place somewhat comparable (a certificate of eligibility must be issued within 30 months of the end of the fiscal year in which principal photography began). |
| • Establish an exchange committee between MRQ and SODEC to resolve, as they arise, problems related to administration of the refundable income tax credit for film and television production. Where applicable, professional associations concerned could be invited to participate in the work of the committee. | Comparable process in place. |

[1] Revenue Quebec
[2] The Corporation for Development of Cultural Enterprises
[3] Department of Revenue Act

*Prepared by the Office of the Provincial Auditor*

Our review of Ontario's Media Tax Credits also indicated that, for the most part, the OMDC and the Ministry of Finance had taken appropriate steps over the years to address internal control issues. For example, in 2000, the OMDC's predecessor—the Ontario Film Development Corporation—commissioned an independent review by an external consultant of its existing policies and procedures in an effort to minimize the risk of abuse of the Media Tax Credits. We noted that the key recommendations made by the consultant had generally been implemented.

We also noted that the OMDC and the Ministry of Finance had developed positive relationships with the federal cultural tax credit and tax authorities with a view to making the administration of the Media Tax Credits more effective through more extensive co-operation, mutual assistance, and information-sharing. We noted that in some cases, joint audits and collaborative client information sessions were being planned and executed and that audit information involving the OFTTC was being exchanged.

MINISTRY OF TRANSPORTATION

# 3.14–Maintenance of the Provincial Highway System

## BACKGROUND

Under the *Public Transportation and Highway Improvement Act*, the Ministry of Transportation is responsible for building and maintaining the province's 39,000 lane kilometres of highway. The Ministry is also responsible for the province's bridges and other transportation-related structures (for example, lighting, signs, guiderails, and buildings such as equipment storage facilities). The regional breakdown of the highway system is as shown in the following table.

**The Highway System by Region, May 2004**

| Region | Lane Kilometres of Highway | # of Bridges |
|---|---|---|
| Southwest | 5,251 | 594 |
| Central | 5,296 | 943 |
| Eastern | 5,715 | 474 |
| Northeast | 14,025 | 380 |
| Northwest | 8,885 | 321 |
| **Total** | **39,172**[1] | **2,712**[2] |

[1] The Ministry uses three measures of highway length: centre-line, two-lane-equivalent, and lane kilometres (km). A four-lane, 100-km highway represents 100 centre-line km, 200 two-lane-equivalent km, and 400 lane km of highway.

[2] The total excludes 100 bridges owned by local road boards in the Northeast region that the Ministry provides funding to maintain. It also excludes tunnels and structural culverts.

*Source of data: Ministry of Transportation*

The Ministry estimated that the current value of the provincial highway system is approximately $39 billion. The following table shows the breakdown of the system into its components and their estimated current values.

**Value of the Highway System at June 10, 2004**
**($ million)**

| | Land and Land Improvements | Highways | Bridges | Other | Total |
|---|---|---|---|---|---|
| replacement cost | 17,768 | 19,299 | 4,404 | 4,244 | **45,715** |
| deterioration | −967 | −3,842 | −1,147 | −864 | **−6,820** |
| current value | 16,801 | 15,457 | 3,257 | 3,380 | **38,895** |

*Source of data: Ministry of Transportation*

In managing the highway system, the Ministry's primary goals are to contribute to economic development by maximizing highway capacity, efficiency, and safety and to protect highway infrastructure by performing needed preventive and preservation maintenance. To accomplish these objectives, the Ministry has organized highway programs into three major categories of work—maintenance, minor capital projects, and major capital projects, as described in the following table.

**Maintaining the Highway System**

**Maintenance**

**Moving people and goods safely and efficiently**

- ongoing maintenance activities include snow plowing and salting (the major cost in this category), shoulder grading, line painting, grass cutting, filling in potholes, cleaning up after accidents and spills, and repairing guiderails after accidents.

**Minor Capital Projects (less than $1 million)**

**Protecting roads and bridges in order to prolong their useful lives**

- *Prevention:* work to slow the deterioration of the surface layer (for example, crack filling).
- *Preservation:* work that both extends the life and improves the ride quality of a road or a bridge (for example, milling off and replacing the surface layer of pavement).
- *Holding:* work done to maintain safety and usability of a road in cases where major rehabilitation or reconstruction projects must be deferred for a few years.

Other: repairs and improvements to both highways and ancillary assets

**Major Capital Projects ($1 million and more)**

**Maintaining and expanding the highway system's capacity and improving safety**

- *Rehabilitation:* extensive work on bridges and roads that restores them to close to new (for example, milling off and replacing more than one layer of pavement); each successive rehabilitation adds fewer years of service life to the asset, so that eventually it is more cost effective to reconstruct it.
- *Reconstruction:* typically done after two or three rehabilitations and results in the same quality and life expectancy as a new road/bridge (for example, on roads this involves removal of all old pavement, some improvements to the roadbed, and new pavement).
- *Expansion:* construction of a new or expansion of an existing highway; expansions of existing highways are usually conducted concurrently with reconstruction of existing lanes.

*Source of data: Ministry of Transportation*

Maintenance program spending is driven mostly by events outside the Ministry's control—weather and accidents—whereas capital spending is driven by asset management and transportation planning considerations. The Ministry spent $241 million on highway maintenance and $1 billion on its highway capital program in the 2003/04 fiscal year.

## AUDIT OBJECTIVES AND SCOPE

The objectives of our audit were to assess the adequacy of the Ministry's procedures for ensuring that:

- the province's highway assets were maintained safely, cost effectively, and in accordance with legislation and policies; and
- its performance in managing the provincial highway system was properly measured and reported.

Our audit, which was carried out from September 2003 to April 2004, was conducted in accordance with professional standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants, and accordingly included such procedures as we considered necessary in the circumstances.

Specifically, it included examining documentation, analyzing information, and interviewing staff at the Ministry's head office and at selected regional and area offices.

We identified criteria that would be used to conclude on our audit objectives. These were discussed with and agreed to by senior management of the Ministry.

The Ministry's Internal Audit Services Branch had recently completed an audit of the Ministry's major provincial highway construction activities, and, after reviewing its report and supporting documentation, we determined that we did not need to re-examine the administration of major capital projects as part of this audit. Highlights of Internal Audit's more significant observations are included in this report.

## OVERALL AUDIT CONCLUSIONS

While the Ministry had adequate procedures in place to ensure that contractors bidding on routine maintenance and minor capital projects are qualified and that the services are acquired competitively, we concluded that its systems and procedures were not sufficient to ensure the province's highway assets are being maintained cost effectively. In particular, we noted the following:

- In measuring and evaluating the performance of contractors engaged to maintain provincial highways, the Ministry:

  - did not have assurance that its oversight of the work of contractors was effective and efficient;
  - did not have adequate procedures to ensure that sanctions for contract violations were administered in a consistent manner; and
  - could not readily combine inspection results with other data, such as complaints by highway users and service-level data, to provide comprehensive information about the performance of contractors and ministry inspection staff.
- The Ministry did not adequately prioritize its capital projects to ensure those with the highest benefit/cost ratio were performed first. In addition, although the Ministry is aware that the long-term financial impact of deferring preventive and preservation maintenance projects can be significant, only about half of prevention and preservation projects that ministry engineers had identified for immediate attention were able to be done each year.
- The Ministry did not have adequate systems and procedures in place to ensure that all bridges it is responsible for are inspected at least once every two years, as legislation requires. As well, the Ministry did not obtain adequate assurance that municipalities are meeting the legislated requirement to inspect the thousands of bridges for which they are responsible.

We also noted that the Ministry's measures of bridge and pavement condition indicate that about 32% of provincial bridges and about 45% of highway pavements will require major rehabilitation or replacement within the next five years. Historical funding levels will not be sufficient to address these needs.

With respect to performance measurement and reporting, we concluded that in some areas the Ministry had not adequately reported on performance where information such as pavement condition ratings was available. In other areas it was failing both to collect the performance information it needed and to report the results to the public. For example, we found ministry reporting to be inadequate with respect to:

- the condition of highway assets;
- service levels to users, such as response times and construction delays;
- comparisons of such data for Ontario with that of neighbouring jurisdictions (the Ministry also did not carry out meaningful analysis of the differences noted between Ontario's performance and that of the other jurisdictions); and
- the effectiveness of the Ministry's efforts to reduce the significant damage to bridges and highways caused by heavy trucks.

The Ministry is in the process of implementing an Asset Management Business Framework; it expects that the implementation will be completed by 2007 and that this approach will address most of the gaps in performance information for decision-making and for reporting that we observed.

In a recent report on the management of major highway construction projects, the Ministry's Internal Audit Services Branch made a number of significant observations on the Ministry's processes for controlling the quality and cost of construction work. They found weaknesses in project design, monitoring during construction, pavement-quality testing, and warranty administration.

# DETAILED AUDIT OBSERVATIONS

## *MANAGING MAINTENANCE*

As has been done in several other jurisdictions, the Ministry outsourced almost all maintenance work on provincial highways and bridges to the private sector between 1996 and 2000. The Ministry uses two contracting arrangements—area maintenance contracts (AMCs) and managed outsourcing contracts (MOCs). The key aspects of AMCs and MOCs are described in the following table.

**Maintenance Work Contracts**

| Area Maintenance Contract (AMC) | Managed Outsourcing Contract (MOC) |
|---|---|
| one contract for all maintenance activities | separate contracts for each activity (snow plowing, line painting, etc.) |
| cover sections of highway ranging from 370 to 1,350 two-lane-equivalent km | cover sections of highway ranging from 350 to 2,300 two-lane-equivalent km |
| contractors responsible for all patrolling and maintenance activities | Ministry does patrolling and calls in contractors as needed |
| terms of contracts: seven to nine years with fixed annual fees | terms of contracts: three to five years with *per diem* fees or unit prices |
| total of 13 AMC areas, with 29 contracts, that cover 60% of the highway system | total of nine MOC areas, with many contracts, that cover 40% of the highway system |

*Source of data: Ministry of Transportation*

Although it has outsourced most highway maintenance work, the Ministry retains responsibility and accountability to the public for the quality and timeliness of maintenance operations.

The expenditures for highway maintenance from 1997 to the time of our audit are given in the following table. The table shows that the significant shift from in-house to contract maintenance was completed in the 1999/2000 fiscal year.

**Highway Maintenance Expenditures, 1996/97–2003/04**

| Maintenance Program | Interim 2003/04 | 2002/03 | 2001/02 | 2000/01 | 1999/2000 | 1998/99 | 1997/98 | 1996/97 |
|---|---|---|---|---|---|---|---|---|
| | ($ million) | | | | | | | |
| AMC | 118 | 117 | 105 | 89 | 44 | 11 | 6 | 4 |
| MOC | 72 | 78 | 72 | 72 | 20 | 3 | — | — |
| in-house work [1] | 24 | 25 | 26 | 31 | 106 | 155 | 158 | 174 |
| contract oversight [2] | 16 | 15 | 14 | 10 | 3 | 1 | — | — |
| general costs [3] | 11 | 17 | 19 | 20 | 34 | 41 | 39 | 38 |
| **Total highway maintenance** | **241** | **252** | **236** | **222** | **207** | **211** | **203** | **216** |
| | (thousand) | | | | | | | |
| Total lane kilometres maintained [4] | 46 | 46 | 45 | 45 | 45 | 46 [5] | 53 | 56 |
| **Maintenance cost/km ($)** | **5.3** | **5.5** | **5.2** | **4.9** | **4.6** | **4.6** | **3.9** | **3.9** |

[1] The Ministry's accounts for in-house work do not include a charge for the cost of equipment (plows, spreaders, etc.) or for certain overhead costs that are reflected in payments to contractors.

[2] Contract oversight includes compensation of maintenance co-ordinators and winter seasonal staff.

[3] General costs include administration, WSIB and liability insurance premiums, and training. However, non-recurring costs related to outsourcing have been excluded.

[4] Total includes ramps, ramp terminals, passing lanes, and truck climbing lanes, which the Ministry commonly does not include when reporting the total for highways alone (see "Background").

[5] The reduction in the number of lane kilometres maintained between 1996/97 and 1998/99 was the result of the transfer of certain roads and bridges to municipalities.

*Source of data: Ministry of Transportation*

We found that the Ministry had appropriate controls over the contracting and payments processes. Specifically, the Ministry ensured that contractors bidding on Ministry work were financially sound, a competitive number of bids were received for each contract, and the best bids were accepted. Despite the competitive acquisition of services, costs have continued to rise, as the table above shows. The Ministry informed us that higher costs are due to a number of factors, such as above-inflation increases in salt prices, a requirement that contractors make use of advances in winter maintenance equipment, new safety regulations governing road maintenance, and increased traffic. However, we noted that it is not the Ministry's practice to analyze the year-to-year change in maintenance costs in order to identify the source of major increases and therefore the areas to which management should direct its attention.

Ministry contracts contain very detailed specifications regarding the services to be provided and associated performance standards that contractors are expected to meet. The Ministry's maintenance co-ordinators are responsible for verifying whether contractors have met their contractual obligations. Each co-ordinator is assigned sections of highway to inspect—generally about 200 to 300 two-lane-equivalent kilometres—to determine whether maintenance work (snow plowing, pothole filling, grass cutting, etc.) has been done according to the terms of the contract. They report their findings to maintenance superintendents, who may also inspect the work done by contractors.

If contractors do not fulfill their obligations, the contracts provide for a range of sanctions, depending on the seriousness of the violation and the contractor's history of violations. Sanctions include warning letters, small financial penalties, demerit points with financial penalties, and infraction reports that restrict the contractor's ability to bid on future work for the Ministry. The Ministry retains the right to terminate contracts in cases of frequent and serious violations. MOCs provide for financial penalties of up to $1,500 per occurrence. For AMCs, demerit points accumulate over the life of the contract and the associated financial penalty per point increases as points are accumulated, up to a maximum of $10,000 per point. Examples of violations that could result in demerit points are failure to mobilize snow plows or salt spreaders within the response time indicated in the contract, improper application of salt or sand, and failure to maintain proper records regarding maintenance operations. For the year ended March 31, 2004, the two regions that we visited had levied demerit penalties of $210,000 on AMCs (annual payments by the Ministry on these contracts were $52 million) and financial penalties of $14,000 on MOCs.

## Inspecting Maintenance Work

The Ministry provides maintenance co-ordinators with guidelines for carrying out their inspections of the highway sections that have been assigned to them. However, while helpful, the guidelines are not specific enough either to define what constitutes an adequate inspection regime for effectively monitoring contractor performance and ensuring safety or to ensure that the Ministry can hold co-ordinators accountable for meeting the guidelines. For example, the guidelines state that the time of day that inspections are conducted should be random, but it is not clear how often a superintendent should expect to see inspections carried out on evenings and nights, weekends, and holidays, particularly with respect to winter operations. In another example, the guidelines state that all highway sections should be inspected, but they do not suggest a minimum frequency.

As well, the only detailed data available about inspections with respect to date, time, and results are the notes co-ordinators record in their diaries. In the absence of electronic records, summary information regarding the inspection work of each co-ordinator is not available. This makes it more difficult and time-consuming for superintendents to monitor whether inspection activities are adequately ensuring effective contract oversight. It would be more efficient to use electronic checklists, with the details about each inspection entered by co-ordinators using hand-held computers and uploaded daily to a ministry system. Having this information in a central system not only would help management review inspection activities but would also provide an accessible trail if subsequent events suggested that an inspection was improperly done or not done at all. It would also make it easy to compare inspection data with the operating data submitted by contractors.

We also noted that the Ministry does not have a process for organizing information regarding complaints, accidents (where road conditions were a factor), and claims for damages by users in a way that facilitates comparison to activity reports submitted by contractors and to the results of inspections by co-ordinators. Such information would help the Ministry to:

- incorporate risk into the selection of sections/contractors to inspect;
- evaluate the performance of contractors; and
- assess the quality of inspection work by co-ordinators.

## Measuring Contractor Performance

The Ministry, through inspections by maintenance co-ordinators, determines whether contractors have met the performance standards set out in their contracts. However, it has not established procedures for measuring the extent to which their performance exceeded or fell short of ministry standards. Consequently, the Ministry cannot compare year-to-year results for the same sections of highway or for similar sections across the province and therefore cannot identify best practices that should be adopted throughout the province. Measures that the Ministry might use in this regard include:

- number of hours required to achieve bare pavement after a snowfall combined with a measure of the severity of weather (for example, temperature and amount of snow);
- number of days to fill potholes;
- response time to remove debris and dead animals; and
- appearance of highway corridors (for example, landscaping).

In its response to our report on highway maintenance in our *1999 Annual Report*, the Ministry agreed that performance measures for contractors were desirable management tools, but none had been established at the time of our current audit.

## Signing the Code of Conduct

Whenever ministry staff oversee the work of service providers, there is a risk that they will be inappropriately approached by the service providers. A code of conduct helps manage this risk by clarifying the Ministry's expectations for employees to discharge their duties in an impartial, objective, and accountable manner and provides guidance to staff on the risks to be managed and behaviours to be avoided. While the Ministry has a code of conduct, it does not require staff to periodically reaffirm in writing that they are familiar with it and have complied with it. We believe this is a prudent practice to help reduce the risk that an employee will not comply with the code.

## Managing the Sanctions Process

In the regions we visited, the sanctions process was initiated by the Ministry's maintenance co-ordinators, who reported violations to their superintendents. The superintendents assessed the seriousness of the violations and determined whether to issue warning letters or recommend to regional management that penalties be levied on the contractors concerned. We had the following concerns regarding the sanctions process.

### *ENSURING FAIR AND CONSISTENT SANCTIONS*

Maintenance superintendents from the Ministry's various field offices meet periodically to discuss contract management issues, including the administration of sanctions. Regional staff also receive training on the administration of sanctions. However, these procedures have not been sufficient to ensure that violations are assessed and sanctions administered in a fair and consistent manner. We found cases where:

- sanctions were recommended by maintenance superintendents but were not issued by regional management, with no supporting documents on why the superintendent's recommendations were overturned;
- sanctions should have been issued but were not because regional management felt that too much time had elapsed between the date of the violation and the date of their review of the recommendation;
- different sanctions were imposed for the same violation—for example, with respect to record-keeping violations, one contractor was issued demerit points for the first documented violation, whereas two others received only written warnings; and
- some sanctions taken appeared to be inconsistent with the severity of the violations. For example:
    - Presumably in order to avoid being assessed demerit points, a contractor did not accurately reflect the late response time of plows in winter operations records. Although the contractor was assessed a financial penalty for the late response, the contractor was not assessed demerit points for the full extent of the lateness, which was never recorded. Since, as mentioned earlier, demerit points accumulate over the life of the contract with progressively greater penalties per point, there is great advantage in avoiding demerit points in cases such as this one.
    - A contractor found to be using a salt/sand mix instead of more expensive straight salt as required under the contract received only a warning letter.

### *MAINTAINING A COMPREHENSIVE RECORD OF CONTRACT VIOLATIONS*

The Ministry does not have a system that contains comprehensive information for all contract violations, such as the nature of each violation, the date of occurrence, the actions recommended and taken (for example, warning letters, penalties, demerits plus penalties, infraction reports) with the rationale for these decisions, and the name/ position of the personnel making the recommendations and decisions. Such a system could help management monitor that both actions taken in response to contract violations and contractor performance evaluations are appropriate and consistent throughout the province. Also, if the system were computer-based using wireless hand-held devices, co-ordinators and superintendents could directly update it with their reports of violations and recommendations for sanctions, thereby eliminating the need to maintain records at both the field office and the head office.

### Recommendation

**In order to manage maintenance contractors more effectively, the Ministry should:**

- **provide co-ordinators with more specific guidelines to assist them in performing inspections effectively;**
- **implement systems for managing and analyzing data regarding inspections, violations, complaints from and claims for damages by highway users, and service levels achieved;**
- **require staff to annually sign a code of conduct governing their relationship with the contractors that they manage; and**
- **take steps, such as reviews of regional procedures and records by head office, to ensure fairness and consistency throughout the province in the sanctions applied to contractors for violations.**

### *Ministry Response*

***The Ministry has detailed guidelines for co-ordinators that were established to provide direction for consistent and unbiased monitoring. The Ministry will review these guidelines with a view to being more specific regarding monitoring frequency and summarizing results.***

***Currently, the Ministry informally uses data from a variety of sources to establish inspection frequencies and monitor contractor performance. The Ministry is conducting trials of new electronic diary technology to enhance the recording and analyzing of data. The Ministry will continue to explore improvements in systems for integrating and analyzing data for more effective contract oversight.***

***The Ministry has a corporate*** **Guide to Business Conduct*****; all staff sign a public servants' oath; and conflict of interest is a key element in training. The Ministry will work with the central government ministries to ensure our code-of-conduct approach is effective.***

***The Ministry will review the administration guideline for sanctions and investigate mechanisms for better tracking and monitoring of sanctions.***

## Monitoring the Impact of Salt on the Environment

*Because of the impact that road salt has on surface water and groundwater,* the Environmental Commissioner of Ontario recommended in his 2001/02 annual report that "MTO explore the establishment of an ecological monitoring program involving vegetation or aquatic organisms near road-salt release reduction areas in order to evaluate the impact of reducing road-salt releases over time."

The Ministry advised us that it plans to engage a consultant to propose how this monitoring can be done and has made arrangements with the Ministry of the Environment regarding technical assistance for this project. However, little progress had been made on this recommendation at the time of our audit.

As well as monitoring the impact of salt on the environment, it is important to collect data and use analytical tools to determine the appropriateness of the amount spread on provincial highways so that the Ministry can:

- identify specific cases of overuse based on current safety standards; and
- track annual usage on a weather-adjusted basis as a means of assessing the impact of the Ministry's initiatives to reduce salt use (such as requiring that contractors use more sophisticated electronic spreaders that limit the salt spread to the amount needed by particular types of roads in particular conditions).

In this regard, only about a quarter of the salt spreaders in use in the winter of 2003/04 were equipped with the electronic monitoring devices needed to collect data on the spreading rate by time and location.

### Recommendation

**In order to identify and better manage the impact of salt use on the environment, the Ministry should take steps to acquire the information and develop the analytical tools necessary to properly monitor salt use and work with the Ministry of the Environment to establish ongoing testing and tracking of the impact of changes in salt use on the local environment.**

### *Ministry Response*

***The Ministry currently tracks salt usage and is working to improve this, particularly through the development and implementation of advanced winter maintenance technology and methods and the use of an Automatic Vehicle Location system that provides real-time, accurate information on the location of plows and spreaders and the amount of salt placed.***

***The Ministry, in co-operation with the Ministry of the Environment, is starting a project to establish a practical approach for environmental monitoring that is intended to demonstrate the impact of reduced salt use on the environment.***

# PRIORITIZING CAPITAL EXPENDITURES

Capital projects are designed and delivered primarily by private-sector consultants and contractors selected by the Ministry, although the Ministry still does some design work. Capital expenditures are segregated into three separate funding envelopes: minor capital, rehabilitation/reconstruction, and expansion projects (see the "Background" section for a description of the work involved for each category). Funds are allocated to each envelope by senior management based on a number of considerations. Allocations to the rehabilitation/reconstruction and expansion project envelopes must be approved by the Management Board of Cabinet. The following table sets out these components of total capital expenditures, including various overhead items.

**Capital Expenditures, 2000–2005**

| | Expenditures for the year ended March 31 ($ million) | | | | | |
|---|---|---|---|---|---|---|
| | **Estimates 2005** | **Interim 2004** | **2003** | **2002** | **2001** | **2000** |
| rehabilitation/reconstruction | 435 | 379 | 391 | 422 | 577 | 456 |
| expansion | 335 | 247 | 250 | 272 | 213 | 186 |
| minor capital (preservation/prevention and other) | 55 | 62 | 91 | 27 | 43 | 49 |
| engineering, design, and program support | 189 | 191 | 184 | 193 | 186 | 171 |
| acquisition of property | 35 | 46 | 56 | 39 | 54 | 61 |
| other (mostly transfers to municipalities) | 116 | 87 | 50 | 83 | 49 | 73 |
| **Total capital expenditures** | **1,165** | **1,012** | **1,022** | **1,036** | **1,122** | **996** |

*Source of data: Ministry of Transportation*

Minor capital and rehabilitation/reconstruction projects maintain and improve existing highways, bridges, and structures. Expansion projects improve safety and reduce congestion by building new highways and bridges and adding lanes to existing ones. Rehabilitation/reconstruction and expansion projects are prioritized at head office, whereas minor capital projects are prioritized at the regional level. Projects in one funding envelope do not compete for funding with those in the other envelopes.

## Deterioration of Pavement

Pavement deteriorates naturally over time. The process is accelerated by cracking, which is caused by settling of the roadbed; expansions and contractions due to temperature extremes; and the impact of vehicles—in particular, heavy trucks. Cracks allow water to infiltrate the pavement structure, which weakens it and subjects it to the freeze-and-thaw cycle that leads to potholes and ultimately to pavement breakup.

High-quality highways, such as the Ministry's freeway class of highways, typically last about 17 years if no action is taken to delay deterioration of the underlying pavement structure. However, the ministry engineers we interviewed and our research indicated that with proper preventive and preservation maintenance and rehabilitation—filling cracks, patching, resurfacing—the useful life of these highways can be extended to 50 years or more before the underlying structure needs to be replaced.

## Funding of Preventive and Preservation Maintenance Projects

Our research and the ministry personnel we interviewed both indicated that preventive and preservation maintenance is:

- time sensitive. For example, delaying an important preventive maintenance activity such as filling cracks for even one year can have a significant impact on pavement condition. Moreover, the delay and resulting impact also affect how long major rehabilitation or reconstruction can be deferred.
- very cost effective. Performing maintenance when recommended extends the useful life of a highway from 17 years if no maintenance is done to more than 50 years. The estimated present value of the savings to the Ministry of this extension over the life of a six-lane freeway is approximately $116,000 for each kilometre. However, the Ministry advised us that fewer than half the maintenance projects recommended by its engineers can be funded in any given year.

The Ministry estimates expenditures on necessary preventive/preservation maintenance and rehabilitation for the 2004/05 fiscal year to be about $1.7 billion, whereas the budget has been set at $490 million, leaving a backlog of $1.21 billion.

In our review of the prioritization and funding of preventive and preservation maintenance projects at the regions we visited, we noted the following:

- The prioritization process was subjective and not adequately documented. The Ministry had not developed criteria that regions should follow in prioritizing these projects, and it had not established oversight procedures to verify that each region makes the best use of available funds.
- The Ministry's allocation of funding to the regions for preventive and preservation maintenance projects was primarily based on the number of lane kilometres of highway each region is responsible for. Other factors—notably, the cost of having to prematurely rehabilitate or reconstruct highway sections because required preventive and preservation maintenance was not done—were not estimated or taken into account. As a result, project priorities could not be compared and evaluated across regions, and the Ministry could not ensure that, on a province-wide basis, projects with the highest benefit/cost ratio were performed first.

Because of the cost effectiveness of preservation/preventive maintenance, some U.S. jurisdictions have decided to place greater emphasis on funding these projects rather than expansion. For example, in 2003 Michigan began deferring expansion projects in favour of preservation projects until such time as "the goal of having 90% of state roads and bridges in good condition is met and can be sustained" (Michigan Department of Transportation). The high payback of preservation/preventive maintenance projects calls into question the practice of having separate envelopes of funding for each category of capital expenditures, because it does not allow these projects to compete with expansion projects for funding.

**Recommendation**

**In order to make the best use of available capital funds, the Ministry's priorization process should allow preservation and prevention projects to compete with all other projects for the available funding based on a full analysis of their costs and benefits.**

***Ministry Response***

***The Ministry agrees with this recommendation and is currently implementing the Asset Management Business Framework, which includes additional analytical tools such as benefit/cost and other economic assessments that will allow for a more consistent means to prioritize all highway investments. It is expected that this framework will be fully implemented in 2007.***

# INSPECTING BRIDGES

## Compliance and Enforcement

Under the regulation in the *Public Transportation and Highway Improvement Act* dealing with inspections of bridges, every bridge must be inspected for structural deficiencies at least once every two years under the direction of a professional engineer and in accordance with the Ministry's *Ontario Structure Inspection Manual.*

### MINISTRY BRIDGES

The Ministry's bridge inspections are organized at the regional office level, with the results being reported to the head office's bridge office. Inspections are performed by senior structural engineers assisted by one or two engineering students or technicians, or by engineering firms engaged by the Ministry. The time required to inspect a bridge varies with its size and design, but is typically about two hours, not including preparation and reporting time. Inspection results are recorded on a standardized template that is entered into a Bridge Management System (BMS) that the Ministry began to implement in November 2002 and expects to be complete by the end of 2005.

A key starting point to complying with the regulation is an accurate inventory of the more than 2,700 provincially owned bridges to be inspected. At present, each ministry region maintains its own inventory, which must be updated for changes affecting ministry bridges (for example, new bridges being constructed and old bridges being reconstructed or demolished), changes in regional boundaries that result in ministry bridges being transferred from one region to another, and transfers of ministry-owned bridges to municipalities and vice versa. Once the BMS is fully implemented, these regional inventory records will no longer be required. In view of the large number of bridges to be inspected, we expected to see, but did not find, procedures in place for periodically verifying that all ministry bridges were accounted for in the regional inventories and that details about each bridge were accurate.

In addition, the regions do not prepare summary information that would enable management to effectively ensure that the Ministry is complying with the regulation. Such summary information could include, for example, a history of major maintenance or improvement work done, as well as the date of last inspection and the inspector's name and employer.

We also noted that inventory records did not identify key aspects of each bridge's structure that would assist inspectors in conducting an effective inspection. The usefulness of such information is clear in cases such as the January 2003 collapse of the Latchford bridge over the Montreal River in northern Ontario. A ministry inspection found that a pre-collapse inspection had missed the deterioration of important "but difficult to inspect" parts of the structure. Had the 40-year-old bridge's unique design features and risks been flagged for inspectors, inspectors might have detected the deterioration of the components concerned before the bridge failed.

Although the BMS has the capacity to address existing gaps in information, we noted that it does not automatically generate reports on overdue inspections for management's attention.

### MUNICIPAL BRIDGES

While municipal governments are responsible for inspecting the bridges they own—which amount to several times the number of bridges owned by the province—the province still has overall responsibility for bridge safety. We were therefore concerned to note that the Ministry had not established procedures for obtaining assurance that municipal governments are complying with the regulation on inspections of bridges. Such procedures would include ensuring that municipal governments maintain accurate inventories of their bridges. In this regard, we contacted two municipalities to determine whether two bridges that had been transferred to them many years ago—but had not been deleted from the Ministry's inventory—had in fact been inventoried by the municipalities. We were advised that, while they had been inventoried, they had not been inspected by the municipalities for at least several years. The municipalities subsequently informed us that one of the bridges had recently been inspected and that the other would be later this year.

## Measuring and Reporting on Bridge Condition

The Ministry recently implemented a measure of "bridge condition" called the Bridge Condition Index (BCI). The previous measure, "optimal state of repair," was concerned only with the condition of the bridge deck—it did not accurately measure the overall condition of the province's bridges and therefore was not a good basis for prioritizing and costing future repairs or replacements.

The BCI attempts to address these problems. It is derived as follows. In the course of each inspection, the engineer estimates the level of deterioration of each major structural component of a bridge. The level of deterioration, when deducted from the replacement cost for each component, yields the component's current value. The BCI is the percentage of the total replacement cost represented by the sum of the current values of the components. Thus, in the case of a bridge with a total replacement cost of $1,000,000 and a total current value of $700,000, the BCI is 70 (total current value = 70% of total replacement cost).

The Ministry expects to have a BCI for all bridges in the Bridge Management System by the end of 2004. We were advised that the index is still being calibrated but that, based on the work done to May 2004, bridges with a BCI greater than 70 will be considered to be in good condition; that is, they will not have to be replaced or rehabilitated within five years from the date of the inspection. The work done to May 2004 also suggests that about 68% of the Ministry's bridges have a BCI greater than 70, as compared to the Ministry's target of 85%. Until the condition of the entire bridge inventory has been assessed, the Ministry is not in a position to estimate the costs required to meet its target.

### Recommendation

**In order to meet its responsibilities for complying with and enforcing the regulation of the *Public Transportation and Highway Improvement Act* dealing with inspections of bridges, the Ministry should:**

- **ensure that its Bridge Management System (BMS) contains complete and accurate information needed for the inspection of each bridge—including details of recent structural and maintenance work done and the key aspects of each structure that must be inspected;**
- **ensure that the BMS can automatically generate reports on overdue inspections for management's attention; and**
- **take steps, perhaps in conjunction with stakeholders, to obtain adequate assurance that local governments have appropriate systems and procedures in place, including reliable bridge inventories, to comply with the regulation requiring bridges to be inspected every two years.**

**Ministry Response**

***The Ministry periodically assesses its procedures for effectiveness and will continue to do so.***

***The Ministry will enhance the Bridge Management System to collect and provide structure details such as those recommended and to provide a notification flag if inspection reports are not filed every two years.***

***With respect to municipal structures, the province will continue to work closely with municipalities to remind municipalities of their responsibilities to conduct bridge inspections. The province is also working with the federal government to assist our municipal partners with the tools they need, such as through recent and upcoming funding assistance initiatives.***

# MEASURING AND REPORTING ON PERFORMANCE

The *Public Transportation and Highway Improvement Act* assigns stewardship over the province's highway assets to the Ministry. Stewardship includes being responsible for developing methods of measuring and reporting on the state of assets under management and on the cost effectiveness with which financial and other resources have been employed to maintain existing assets and expand the highway system.

## Performance Measures Currently Reported On

The Ministry currently reports to the public on its performance through its business plan. The most recent plan, for the year ended March 31, 2003, contained only two performance measures related to maintaining and expanding the province's highway system:

- *Highway accessibility*—the Ministry has established a target of having 93.7% of the population living within 10 kilometres of major provincial highway corridors, up from 90% in 1996/97.
- *Construction efficiency*—the Ministry has established and achieved a target of having 80% of total highway capital costs spent on actual construction versus administration, up from 76% in 1996/97.

In its construction audit report, Internal Audit Services criticized the construction efficiency measure for not directly addressing "efficiency"—the measure captures the ratio of construction costs to administration costs but does not specifically examine the amount of construction work done in return for the dollars invested. Also, performance measures such as this one may have the undesirable result of encouraging managers to economize on the cost of necessary administrative work (such as design work and pre-engineering services) that, if not done properly, can have a significant impact on the total cost of construction projects.

## Performance Measures to Be Considered

Based on our review of research and information reported by other jurisdictions, there are a number of performance measures that the Ministry should consider monitoring and publicly reporting on each year.

### LEVEL OF SERVICE PROVIDED TO HIGHWAY USERS

It is important that, in conjunction with measuring and reporting on *cost*, the *level of service* provided to users be measured and reported on. This can help ensure that the public does not misinterpret as performance improvements any cost savings that have been achieved through reducing the level of service. For example, closing off lanes on Monday to Friday during the day rather than at night in order to perform maintenance would reduce costs—but at the expense of long delays for motorists. Measures of service levels include access to the provincial highway system (currently reported); the level of congestion; service outages (that is, lane closures) due to routine maintenance work and capital projects; and response times associated with maintenance activities such as snow removal, filling of potholes, repair of guiderails and signs, removal of dead animals and debris, and accident cleanups.

### FINANCIAL IMPACT OF MAJOR VARIATIONS FROM DESIGN LIFE

The Ministry bases its calculation of and reporting on depreciation for management purposes on the entire pool of pavement and bridge assets rather than each individual pavement section and bridge. As a result, when a bridge or pavement section must be replaced earlier than expected due to faulty design, poor construction, or failure to perform preventive/preservation maintenance when needed, no loss is calculated or reported for management purposes. Information about the frequency and cost of such premature replacements would help the Ministry assess the adequacy of its design and construction processes. As well, it would assist in evaluating the costs and benefits of transferring more of the risk of poor construction to the contractors that do the work, via extended warranties or holdbacks. Similarly, if there were cases where actual useful life significantly exceeded expectations, quantifying the benefits would assist the Ministry in identifying best practices and in estimating the savings that might be realized by implementing the best practices throughout the province.

### CONDITION OF PAVEMENTS AND BRIDGES

The Ministry currently measures pavement condition using a Pavement Condition Index (PCI) but does not publicly report the results. With respect to bridges, as stated earlier, the Ministry expects to have a reliable measure of bridge condition (the BCI) by the end of 2004. The Ministry does not collect condition data for ancillary assets such as signs and buildings.

The PCI is applied to four different types of paved roads, as follows:

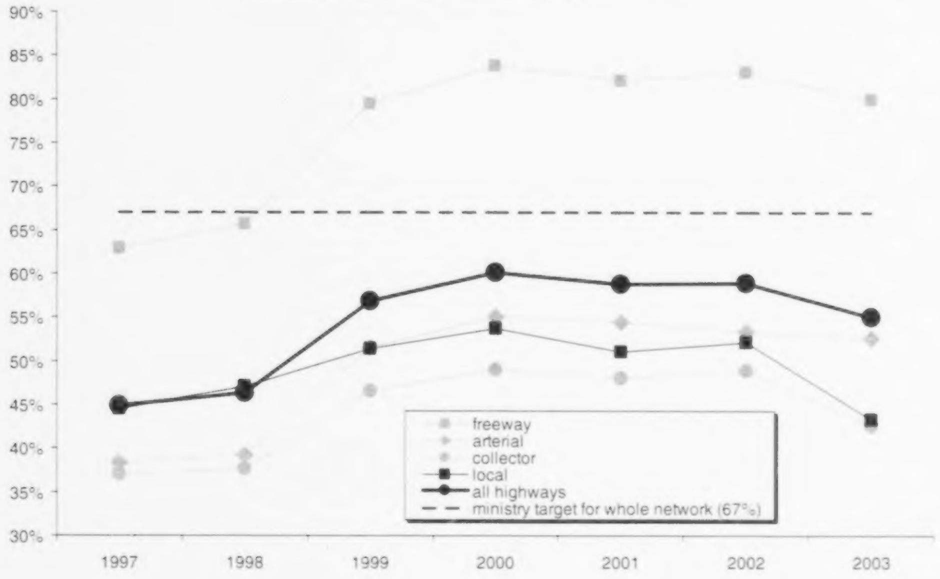
- *freeways*—limited-access, high-volume roads (for example, Highway 400, the Queen Elizabeth Expressway), of which there are 8,400 lane kilometres (24% of the province's paved roads);
- *arterials*—roads where traffic flow is interrupted by traffic signals at grade-level intersections (for example, Highway 10, Highway 9), of which there are 12,600 lane kilometres (35%);
- *collectors*—generally, two- to four-lane roads where traffic flow is interrupted to allow for grade-level access to property (for example, Highway 48, Highway 49), of which there are 8,700 lane kilometres (25%); and
- *locals*—typically, low-volume, two-lane roads with few restrictions on access (for example, the 600 and 500 series highways in northern Ontario), of which there are 5,800 lane kilometres (16%).

The PCI cannot be applied to the province's 3,500 lane kilometres of gravel roads.

The PCI consists of two components: the international roughness indicator (IRI), which measures pavement smoothness; and the distress manifestation index (DMI), which measures the level of cracking, rutting, and so on. IRI measurements are made using a machine that takes readings as it is driven over highways. The Ministry has engaged a contractor to measure the IRI of half the highway system each year. The measurement for each section of highway is recorded in the pavement management system (PMS). DMI measurements are made by regional geotechnical personnel who inspect highway sections for distresses annually and complete a standardized report, the details of which are also recorded in the PMS.

The Ministry has calibrated PCIs so that they can be translated, for each highway section, into the number of years until major rehabilitation or reconstruction is needed and in this regard uses four categories: now, one to five years, six to 10 years, and more than 10 years. Roads in the six-to-10-years and more-than-10-years categories are considered to be in good condition. The following line graph shows the percentage of lane kilometres of provincial highways in good condition from 1999 to 2003.

Percentage of Paved Roads in Good Condition



*Source of data: Ministry of Transportation*

Other useful measures related to asset condition include:

- the remaining service life of assets, defined as the number of years until reconstruction; and
- the current value of assets, defined as replacement cost minus deterioration as determined by inspections.

These measures decline as the assets deteriorate and increase when preservation and rehabilitation are performed. A declining trend in remaining service life and current value would indicate that major capital expenditure requirements will increase in the foreseeable future.

Also, an analysis of year-to-year changes in these measures in relation to changes in PCIs and BCIs would help the Ministry, legislators, and the public assess whether the Ministry is making wise capital investment decisions. For example, simply resurfacing a road that requires major rehabilitation will temporarily improve ride quality and therefore PCI but won't significantly increase the useful life or current value of the road. Such quick fixes would not be a cost-effective use of funds.

We also noted the following:

- The PCI and BCI measures indicate that 45% of pavements and 32% of bridges will require rehabilitation or reconstruction within the next five years.
- The Ministry does not yet forecast capital expenditure requirements beyond one year based on a rigorous assessment of asset condition and the timing of needed expenditures. Thus, neither management nor legislators have information about

peaks in capital expenditure requirements, in addition to the current backlog, that may arise in future. Based on available asset condition data, such expenditures will be substantial and clearly in excess of historical funding levels if the backlog is to be addressed.

### *HIGHWAY SYSTEM COSTS PER KILOMETRE*

Two measures that would assist legislators and the public in assessing how effectively the Ministry spends its funding are:

- a highway's life cycle cost per lane kilometre, calculated by adding together the highway's original construction expenditures and all the subsequent preventive/ preservation maintenance and rehabilitation expenditures made over the highway's useful life and annualizing the cost on a per-lane-kilometre basis; and
- a highway's annual routine maintenance cost per lane kilometre, adjusted for the impact of winter weather fluctuations on salting and plowing costs.

### *EFFECTIVENESS OF EFFORTS TO REDUCE EXCESS-WEIGHT DAMAGE*

As shown in the following table, Ontario's maximum allowable gross vehicle weight of 63,500 kilograms is higher than that of most other North American jurisdictions.

**Allowable Gross Vehicle Weights by Jurisdiction**

| Jurisdiction | Maximum Weight (kg) | |
|---|---|---|
| | Semi-trailer | Double trailer |
| Ontario | 63,500 | 63,500 |
| Quebec | 57,500 | 62,500 |
| other Canadian jurisdictions | 46,500 | 62,500 |
| New York | 48,500 | 36,300 |
| Michigan | 68,000 | 72,500 |
| other U.S. jurisdictions | 36,300 | 36,300 |

*Source of data: Ministry of Transportation*

The Ministry estimated that certain heavy-truck and tractor-trailer configurations (especially those equipped with liftable axles) cause in the order of $300 million of avoidable damage per year to municipal and provincial roads and bridges. Therefore, the Ministry initiated its four-phase Vehicle Weight and Dimension Reform Project. Phases One and Two were implemented by amendments to the *Highway Traffic Act* in 2001 and 2002. These amendments force a gradual migration to less damaging vehicles over time as vehicles are replaced. Accordingly, carriers can obtain permits allowing them to use—for up to 20 years—existing equipment that does not comply with the project's requirements.

Another issue with respect to trucks is that there is a significant economic incentive for freight carriers to overload trailers, as the incremental costs of heavier loads are low compared to the additional revenues. Therefore, the Ministry has an enforcement program to detect overweight trailers and deter them, via fines, from exceeding weight limits. However, the Ministry does not collect and analyze the data necessary to determine whether the enforcement program is, in fact, an effective deterrent. For example, the Ministry does not have information on:

- the resolution of each charge for weight violations by its enforcement officers—was the carrier convicted or did the court throw the charge out? if the carrier was convicted, did the court impose the full fine or a reduced amount?;
- the program totals regarding the resolution of charges—that is, the percentage of charges that resulted in convictions, the percentage of the statutory fines actually imposed by the courts, the percentage of the fines collected; and
- the reasonableness of the fines collected compared to economic benefits gained as a result of the violations—in other words, given the likelihood of being caught and convicted, are the fines a sufficient deterrent or just a nuisance cost of doing business?

## Other Information for Decision-making

Expanding the province's highway system—with new highways or new lanes for existing highways—increases both the routine maintenance costs immediately incurred (for example, snow removal costs) and the prevention, preservation, and rehabilitation work that will be required in the future. When submitting expansion projects for approval to the Management Board of Cabinet, the Ministry estimates their impact on routine maintenance expenses but does not include the projected ongoing costs of maintaining the new assets in good condition.

The Ministry has estimated the present value of the life cycle costs to maintain the freeway class of highways in good condition at approximately $250,000 per lane kilometre (life cycle costs for bridges and other classes of highways have not yet been developed). This estimate does not include costs such as those for traffic control, which are significant in urban areas. In view of the size of this ongoing obligation, these life cycle costs should be included in proposals for new highways. Otherwise, expansion projects will continue to be approved on the basis of incomplete information.

## Asset Management Business Framework

Since our last audit in 1999, the Ministry has been implementing an Asset Management Business Framework. The framework is intended to help the Ministry manage its assets better and to set priorities for sound investment decisions; it will consider a full life-cycle analysis of costs and all relevant measures of performance, including system condition, traffic mobility, safety, environmental impact, and asset value. The Ministry advised us that implementation is underway and is expected to be completed by 2007 and that this new approach will enable management to address most of the gaps in performance measurement and reporting noted above.

**Recommendation**

**To better support decision-making and strengthen accountability to the public the Ministry should:**

- **implement performance measures dealing with the condition of assets under management and the cost-effectiveness with which resources have been employed in managing the province's highway system and report annually on the results; and**
- **ensure that proposals for expansion projects contain information on the costs of maintaining the new highways.**

***Ministry Response***

***The Ministry agrees with this recommendation and is in the process of developing a comprehensive suite of performance measures that will focus on the outcomes of transportation investments. These measures will include pavement and bridge conditions, asset value, safety, mobility, and cost efficiency measures. In addition, the province will benchmark its pavement and bridge measures against other highway jurisdictions. It is the Ministry's intention to include the new measures as part of our annual planning process.***

***The Ministry is very supportive of providing all life cycle cost commitments associated with expansion projects in project proposals and will be able to do this using the Asset Management Business Framework tools.***

## INTERNAL AUDIT OF HIGHWAY CONSTRUCTION

Major construction projects—comprising construction of new highways and expansion, reconstruction, and rehabilitation of existing highways—were examined extensively by Internal Audit Services during 2002/03. Internal Audit Services made recommendations with respect to a number of issues, and we have summarized those that are related to the Ministry's procedures for controlling the quality and cost of construction work.

Internal Audit Services identified significant weaknesses in the systems and procedures in place for ensuring that construction funds have been spent effectively. We will assess the Ministry's progress in addressing these recommendations in our follow-up report on this audit in 2006.

## Quality of Work by Design Consultants

The Ministry tenders to external design consultants the tasks of preparing detailed project specifications for construction contractors and estimating the cost of projects based on their designs. Certain of Internal Audit Services' findings raised concerns regarding the quality of design work, as follows:

- Successful bid prices for construction projects often had a variance of more than 20% from the design consultant's estimate.
- The Ministry incurred significant costs over the bid prices on construction contracts due to the large number of change orders and additions.

Inaccurate cost estimates and numerous change orders and additions call into question whether consultants have a thorough understanding of ministry requirements, construction costs, and what drives those costs. This in turn calls into question whether the design services acquired by the Ministry resulted in cost-effective highway construction projects.

The internal audit observations were supported by a February 2004 report to the Ministry by consultants it engaged to assess the relationship between the Ministry and its service providers. The consultants found "that construction companies hold an extremely negative view of the quality of design work, and that companies in the design business are themselves only in the neutral range" in rating the quality of their work.

Internal Audit Services recommended that the Ministry revise its management processes governing project design and cost estimation in order to reduce the need for change orders and additions.

## Quality of Work by Contract Administrators

The Ministry hires contract administrators to manage major capital projects on its behalf. Internal Audit Services found "wide-ranging differences in the quality of documentation and reporting provided by [contract administrators]," with the result that it was "difficult to see how Ministry staff are able to monitor the quality of projects." Internal Audit Services recommended that the Ministry require proper documentation and checklists from contract administrators to ensure that it is receiving value for money.

## Testing the Quality of New Pavement

The quality-assurance process for new pavement includes taking core samples of the pavement and having them tested by certified laboratories for the quality of materials and adequacy of compaction. Contractors receive bonuses or pay penalties where pavement quality is above or below ministry standards.

Internal Audit Services noted that the laboratories that conduct the pavement tests are hired by the contractors and in some cases are owned by them. It found that, although the Ministry does some pavement-quality testing on its own, these tests do not provide adequate assurance that the contractor test results are reliable and that bonuses paid to contractors based on the results are appropriate. Allowing contractors to hire/own the laboratories that measure how well they have performed a key element of their job represents a conflict of interest. Internal Audit Services recommended that the Ministry conduct a comprehensive review of the effectiveness of laboratory testing procedures and the accuracy of test results.

## Construction Warranties

The Ministry requires contractors to provide a one-year warranty on their work. Roads and bridges are inspected by ministry staff or contract administrators engaged by the Ministry prior to the expiry of the warranty. Contractors are required to perform remedial work to correct any deficiencies identified. Contractors that refuse to perform the required remedial work receive a reduction in their qualification ratings and are less likely to obtain future contracts. Internal Audit Services found that:

- provisions related to warranties in ministry construction contracts "are weak and vague, resulting in inconsistencies in warranty administration and implementation across the province"; and
- four neighbouring states required warranties of five to seven years. Officials of two states that were contacted were of the view that while extended warranties increased their contract prices, the increases were "more than offset by reductions in maintenance costs."

Ministry staff we interviewed felt that extended warranties on minor capital projects do not provide much benefit when the full costs are considered (that is, the increase in contract prices and in staff time and costs involved in enforcing warranties). However, the Ministry has not conducted an in-depth study of the costs and benefits of extended warranties for capital projects to either support or contradict this perception.

Internal Audit Services recommended that the Ministry strengthen the wording of warranty provisions in its construction contracts, implement procedures for ensuring consistency in warranty administration throughout the province, and pilot-test the use of extended warranties.

## CHAPTER FOUR

# Follow-up of Recommendations in the *2002 Annual Report*

It is our practice to make specific recommendations in our value-for-money (VFM) audit reports and ask ministries and agencies to provide a written response to each recommendation, which we include when we publish these audit reports in Chapter Three of our Annual Report. Two years after we publish the recommendations and related responses, we follow up on the status of actions taken by ministries and agencies with respect to our recommendations.

Chapter Four provides some background on the value-for-money audits reported on in Chapter Three of our *2002 Annual Report* and describes the current status of action that has been taken to address our recommendations since that time as reported by management. Our follow-up work consists primarily of inquiries and discussions with management and review of selected supporting documentation. This is not an audit, and accordingly, we cannot provide a high level of assurance that the corrective actions described have been implemented effectively. The corrective actions taken or planned will be more fully examined and reported on in future audits and may impact our assessment of when future audits should be conducted.

## MINISTRY OF COMMUNITY AND SOCIAL SERVICES

# 4.01—Ontario Works Program

## (Follow-up to VFM Section 3.01, *2002 Annual Report*)

## BACKGROUND

Under provisions of the *Ontario Works Act*, the Ontario Works program of the Ministry of Community and Social Services (at the time of our audit named the Ministry of Community, Family and Children's Services) provides employment and temporary financial assistance to individuals on condition that they satisfy requirements intended to help them find and maintain paid employment. For the 2003/04 fiscal year, the Ministry's share of financial assistance provided to individuals was approximately $1.5 billion (it was approximately $1.4 billion in 2001/02). The Ministry's share of costs for program administration was $177 million ($171 million in 2001/02).

Since 1997, the Ontario Works program has been subject to a much needed and complex Business Transformation Project. (We previously reported on this project in our 1998 and 2000 reports.) This Project included the engagement of Accenture (formerly Andersen Consulting) to develop a new service-delivery system under a Common Purpose Procurement (CPP) agreement. Given the critical importance of the new service-delivery system to the current administration of Ontario Works and the fact that it was substantially completed and implemented across the province between May 2001 and January 2002, in our 2002 audit we assessed the adequacy of the new business processes and information technology system that were developed as a result of it. The new service-delivery system, including both the new information technology system and the revised business processes, was developed at a cost of approximately $400 million, as of March 2002, by the Ministry and Accenture.

### *Part One: ADMINISTRATION OF THE ACCENTURE AGREEMENT*

The intent of the CPP agreement was for the Ministry to work closely with the selected private-sector vendor to develop and implement new ways of delivering services and, in so doing, share the investment in and risks and rewards of the project. However, we concluded that the Ministry did not meet this objective, in that it accepted most if not all of the risk for the Business Transformation Project while Accenture received a disproportionate amount of the rewards. Specifically, we found:

- As of March 2002, the Ministry had paid Accenture $246 million, which was significantly more than the original $180-million payment cap agreed to.

- The savings attributed to the Business Transformation Project and hence to Accenture were exaggerated.
- We reviewed the new service-delivery system, which was fully implemented in January 2002, and most municipal service manager staff we met with expressed dissatisfaction with the new system, as it was in many respects a step back from what had previously been available to them, it had not been adequately tested, and it was not a finished product at the time of its release.
- Our own testing found that the new service-delivery system had numerous unresolved defects, such as failing to provide certain needed information and providing information that was often inaccurate or in a form that was not useful. There were unexplained errors—for example, benefit payments totalling $1.2 million were sent to ineligible individuals—and there were significant internal control deficiencies.

At the time of our 2002 audit, the Ministry's agreement with Accenture to develop the new service-delivery system for Ontario Works was already in place, and we had already issued recommendations about the administration of the agreement in a 1998 audit, so we did not make recommendations regarding the administration of the agreement in 2002. As a result, we have not performed a follow-up of this part of our 2002 report. Nevertheless, it should be noted that our current audit of the Ontario Disability Support Program (see Section 3.03) includes a section dealing with the Service Delivery Model, which is the same system that supports the Ontario Works program.

### *Part Two: ADMINISTRATION OF THE PROGRAM*

With respect to the administration of the Ontario Works program, we concluded that the Ministry had little assurance that only eligible individuals received the correct amount of financial assistance. The primary reason for this was that the Ministry's procedural requirements for municipal service managers to follow in order to determine recipient eligibility for financial assistance and ensure that assistance in the correct amount was provided were often not met. For example, in the case of one of the service managers that we visited, 95% of the files we reviewed lacked at least one of the information requirements necessary to establish eligibility and to ensure the correct amount of assistance was being paid.

We made recommendations for improving program delivery and received commitments from the Ministry that it would take corrective action.

## CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ministry of Community and Social Services, some progress has been made in effectively implementing the recommendations we made in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

## Intake-screening Units

### Recommendation

*The Ministry should obtain the information necessary for assessing the efficiency and effectiveness of its eligibility-assessment process for the Ontario Works program, determine whether the intake-screening units are meeting expectations, and, where necessary, take corrective action.*

### Current Status

In late 2003, ministry staff and a number of municipal service managers (who deliver Ontario Works on behalf of the Ministry) examined the Ontario Works application process with a view to identifying opportunities for improving the two-step application process. It was decided that further review of the application process was necessary, so in May 2004, the Ministry hired a consultant to do so. The consultant's review was to include a study of the value of the intake-screening units, and the consultant was to make recommendations for improvements. The consultant's final report is expected in September 2004.

## Recipient Eligibility

### Recommendation

*To ensure that all recipients are eligible to receive Ontario Works financial assistance and that the assistance provided is in the correct amount, the Ministry should reinforce with service managers its requirements for obtaining, documenting, and correctly assessing the required recipient information.*

### Current Status

The Ministry advised us that it was currently working with Ontario Works service managers to review and further clarify requirements for obtaining, documenting, and correctly assessing the required recipient information.

The Ministry also advised us that it has developed a strengthened compliance review and performance management process that is to focus on ensuring that only eligible people receive assistance and that the assistance is in the correct amount. The compliance review process is based on a two-year cycle. In the first year of the cycle, a compliance and subsidy claims review, based on a statistical sample of files, is to be completed. Any issues resulting from this review are to be documented in a report provided to the Ontario Works municipal service manager, and an action plan is to be set. The Ontario Works municipal service managers are to report back to the Ministry on the level of corrective action taken. In the second year of the cycle, the Ministry will follow up on any recommendations made during the compliance and subsidy claims review to ensure that the agreed-to action plans have been implemented and that these plans have addressed the issue.

## Eligibility-assessment Process Enhancements

### *FLAGGING HIGH-RISK CASES FOR ELIGIBILITY REVIEW*

**Recommendation**

*To better identify and rank the highest-risk cases for review and to ensure that those reviews are conducted on a priority basis, the Ministry should:*

- *consider refining the criteria used to identify and rank cases in need of a review; and*
- *ensure that service managers prioritize reviews on the basis of assessed risk.*

**Current Status**

We were advised by the Ministry that it has reviewed its risk criteria and implemented refinements to the criteria. Furthermore, in December 2003, the Ministry reminded Ontario Works service managers that file reviews are to be prioritized based on assessed risk.

### *THIRD-PARTY CONFIRMATION OF INFORMATION PROVIDED BY RECIPIENTS*

**Recommendation**

*To help ensure that information provided by recipients of Ontario Works assistance is complete and accurate and that errors or omissions resulting in inappropriate eligibility determinations are detected and prevented, the Ministry should:*

- *assess the advisability of making all mandatory third-party confirmations at the time of a subsequent eligibility review also mandatory at the time of the initial eligibility assessment; and*
- *reinforce with service managers its requirement that all mandatory third-party confirmations be conducted as required.*

**Current Status**

According to the Ministry, an assessment of expanding third-party confirmations at the time of initial eligibility was undertaken, but the Ministry has decided not to make any changes in its requirements for confirming recipient information with third parties either at the time of initial eligibility determination or at subsequent reviews. However, its strengthened compliance review and performance management process is expected to reinforce with service managers the requirement that all mandatory third-party confirmations be conducted as required.

## Reporting of Other Income by Assistance Recipients

### Recommendation

*To help ensure that financial assistance provided by the Ontario Works program is in the correct amount, the Ministry should reinforce the requirement that service managers correctly reflect other reported income in the financial assistance provided.*

*Also, the Ministry should clarify whether or not monthly income-reporting statements are required from assistance recipients who have no income to report in a given month.*

### Current Status

In February 2004, the Ministry issued a policy directive that reinforces the requirement that all reported income is to be correctly reflected in financial assistance provided. This directive also gave all Ontario Works service managers the option to implement an exception-based income-reporting process, which would eliminate the requirement to report monthly income for Ontario Works recipients with no income or with static income.

The Ministry's strengthened compliance review and performance management process is expected to also reinforce the requirement that any income and earnings be accurately reflected in the financial assistance provided.

## Community and Employment Start-up Assistance

### Recommendation

*To help ensure that community and employment start-up assistance provided under the Ontario Works program is reasonable in the circumstances, the Ministry should:*

- *reinforce with service managers its requirement to document and provide community and employment start-up assistance only in eligible circumstances and not in excess of the maximum amounts; and*
- *require service managers to obtain a list of items to be reimbursed, assess the reasonableness of the amounts of assistance requested, and obtain receipts to substantiate all actual costs incurred.*

### Current Status

We understand that the Ministry has not reinforced with municipal service managers its requirement to document and provide community and employment start-up assistance only in eligible circumstances and not in excess of the maximum amounts. However, according to the Ministry, its strengthened compliance review and performance management process is expected to reinforce with the service-delivery managers the above mentioned requirements.

## Pursuing Spousal and Child Support

### Recommendation

*To help ensure that Ontario Works recipients who may be eligible for spousal and/or child support actively pursue such support, the Ministry should ensure that service managers:*

- *ascertain and are able to demonstrate that all recipients entitled to such support have taken reasonable efforts to attain it; and*
- *adequately document the information received, assessed, and verified in issuing a waiver to pursue support, and document the reassessment of the decision at the time the waiver expires.*

### Current Status

In November 2003, the Ministry issued a revised policy for waiving the obligation that Ontario Works recipients pursue family support. The revised policy requires that efforts to obtain support, or, alternatively, the rationale for issuing or extending a waiver to pursue support, be adequately documented. We were also informed that specialized training for family support workers is provided annually and includes discussion of best practices, including documentation requirements.

## Recipient Overpayments

### Recommendation

*To maximize the recovery of overpayments to inactive recipients of Ontario Works assistance, the Ministry should:*

- *ensure that its information technology system correctly indicates overpayment balances, allows the reasons for overpayments to be readily determined, and better supports the collection function;*
- *ensure that service managers actively pursue the recovery of overpayments from inactive clients where warranted; and*
- *consider the development of a policy for writing off uncollectible accounts so that uncollectible outstanding accounts can be identified and written off on a timely basis.*

### Current Status

The Ministry informed us that in December 2003, it established an overpayments task group to review, analyze, and validate the overpayment data in the information technology system. Some of the key objectives of this group include determining how overpayments are created and managed in both the Ontario Works and Ontario

Disability Support programs, identifying key areas where the information technology calculates overpayments, and identifying gaps and proposing solutions for business procedures and technology. This review was in process at the time of our follow-up.

The Ministry also informed us that it was examining how overpayments are recovered with a view to increasing efficiencies in debt recovery, minimizing workload impact in local offices, and responding to our concerns regarding the collection of overpayments from inactive clients. This examination is expected to be completed in October 2004.

The Ministry further advised us that it had written a draft policy for writing off uncollectible overpayments and was working with the Office of the Provincial Controller to ensure consistency with provincial policies for writing off uncollectible accounts.

## Service-manager Claims for Financial Assistance Costs

### Recommendation

*To enable service managers to submit monthly claims to the Ministry for their share of actual Ontario Works assistance benefits provided, the Ministry should ensure that the new information technology system produces accurate and reliable program-expenditure reports.*

### Current Status

The Ministry has not yet made changes to the system. However, it has provided service managers with additional tools to help produce more accurate expenditure reports.

## Participation Agreements

### Recommendation

*To help ensure the Ontario Works program meets its objective of helping recipients find and maintain paid jobs, the Ministry should ensure that service managers:*

- *obtain and assess information about each recipient's educational background and employment history to identify the employment-assistance activities most appropriate for that recipient; and*
- *maintain up-to-date participation agreements that accurately reflect individuals' employment-assistance activities and their current employment-assistance needs.*

### Current Status

An advanced case management and development training program, running from September 2003 to December 2004, is being offered to Ontario Works staff. This program is intended to enhance caseworkers' skills and improve the quality and timeliness of the participation agreements they prepare.

In addition, we were advised that the Ministry's strengthened compliance review and performance management process is expected to reinforce the requirement that a complete and up-to-date participation agreement be on file and that it include activities that are consistent with recipients' documented skills and needs.

## Ministry Monitoring of Service Managers

### Recommendation

*To help verify that service managers' subsidy claims are complete, accurate, and based on actual payments to recipients, the Ministry should ensure that:*

- *actions to correct deficiencies indicated by compliance reviews are carried out;*
- *subsidy-claims examinations are undertaken annually, as required; and*
- *the scope of the work undertaken during subsidy-claims examinations is adequate to conclude on the completeness and accuracy of the claim.*

### Current Status

In spring 2003, applicable Ministry staff received training on how to implement the strengthened compliance review and performance management process. According to the Ministry, this new process incorporates additional mechanisms to ensure that corrective action is taken on identified deficiencies and establishes requirements for the timing and scope of subsidy-claims examinations.

## *MEASURING THE EFFECTIVENESS OF ONTARIO WORKS*

### Recommendation

*To determine the effectiveness of the Ontario Works program in helping assistance recipients to become self-reliant, the Ministry should:*

- *capture and assess the management information necessary to evaluate program effectiveness and take corrective action where necessary; and*
- *look for ways to make termination codes more useful and ensure that service managers understand the circumstances under which specific termination codes are to be used and use the codes consistently.*

### Current Status

We were informed that the Ministry now captures and assesses the management information necessary to evaluate certain aspects of program effectiveness. We also understand that the Ministry has incorporated performance targets linked to specific termination codes into the service planning process. In addition, the service-delivery model now contains an on-line help tool that provides caseworkers with termination code definitions to assist in the appropriate and consistent use of these codes.

## *OTHER MATTER*

## Ontario Works Administration Costs

### Recommendation

*To help ensure that Ontario Works program administration is funded reasonably and equitably among service managers, the Ministry should consider caseload information in its funding decisions.*

### Current Status

This recommendation has been implemented. We understand that budget negotiations for the 2004/05 fiscal year will take caseload information into account in arriving at funding decisions.

## MINISTRY OF FINANCE

# 4.02–Corporations Tax

## (Follow-up to VFM Section 3.02, *2002 Annual Report*)

## BACKGROUND

Generally, the *Ontario Corporations Tax Act* imposes taxes on all corporations that have a permanent establishment in Ontario or that owned and received income from or disposed of real property in Ontario. For the 2003/04 fiscal year, the province recorded approximately $7.3 billion in corporations taxes ($6.6 billion for the 2001/02 fiscal year). In 2001/02 the Corporations Tax Branch had about 770 staff (including staff at regional tax offices) and had expenditures of about $45 million, of which 90% was for salaries and benefits.

In 2002, we concluded that where corporations did not voluntarily comply with the provisions of the *Ontario Corporations Tax Act*, the Ministry did not have adequate policies and procedures in place to ensure that the appropriate amount of corporations tax was being declared and remitted by taxpayers in accordance with statutory requirements. We also noted that the tax gap with respect to provincial corporations tax—that is, the difference between the amount of corporations tax actually collected and the amount that should be collected—may well be substantial. In this regard, we found that the Ministry did not assess or evaluate the extent to which the overall tax gap affected provincial corporations tax revenue, or their collection efforts.

We noted an increase in the extent to which corporations did not voluntarily comply; of the 763,000 corporations with active accounts on the Ministry's tax roll, 355,000 corporations—or one in two—did not file required returns. In 1996, at the time of our last audit, about one in five corporations did not file required returns.

We also noted that the Ministry did not regularly compare all active registrants in the Ministry of Consumer and Business Services' (MCBS) database with those on the corporations tax roll to ensure that all corporations that are registered with MCBS and are required to file a tax return continue to be included in the corporations tax roll.

With respect to its function of auditing corporations tax returns, we found that for corporations with annual gross revenues of $500,000 and over, the number of desk audits completed was about half of the number planned. For the corporations that have gross revenues under $500,000, which represent about 87% of the total number of corporations on the tax roll, very few field or desk audits were performed. Although the Ministry had made a deliberate decision to rely on the Canada Customs and Revenue Agency (now officially named the Canada Revenue Agency) for the audit of smaller corporations, we noted that it had not obtained the necessary information to assess whether such reliance was justified.

We made a number of recommendations for improvement and received commitments from the Ministry that corrective action would be taken.

## CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ministry of Finance, substantial progress has been made on many of the recommendations in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

### *TAX RETURN FILING*

#### Recommendation

*To help ensure that all required corporation tax returns are received and processed and that the appropriate amount of taxes is collected, the Ministry should:*

- *regularly compare the corporations registered in the Ministry of Consumer and Business Services database with those in its own corporations tax database and investigate and resolve discrepancies on a timely basis;*
- *make better use of available tools to enforce compliance by defaulting corporations; and*
- *assess whether additional resources and procedures are warranted to follow up on all outstanding returns and ensure that those returns are appropriately submitted.*

#### Current Status

A Memorandum of Understanding now exists between the Ministry of Finance and the Ministry of Consumer and Business Services (MCBS) that formally requires that data contained in the two respective ministries' databases be synchronized every six months. According to the Ministry of Finance, any discrepancies found in the synchronizations are investigated. In addition, the Ministry informed us that it now uses weekly electronic data updates from MCBS to update the corporations tax roll on an ongoing basis.

With respect to enforcing compliance and following up on outstanding returns, the Ministry informed us that in April 2003, it issued follow-up notices demanding filing of either outstanding tax returns or exempt-from-filing declarations to all 340,000 corporations that had not filed these. Second notices were issued in November 2003 to the 240,000 corporations that did not respond to the first notices. About 150,000 corporations did not respond to the second notice. At the time of our follow-up, corporations that had failed to respond to the second notice were being subjected to progressive enforcement action, which includes phone calls, arbitrary assessments, prosecution of directors under the *Provincial Offences Act*, and charter cancellation. In the 2003 Ontario Budget, resources were allocated to perform these activities, with an expected clearance of the backlog within the next five years.

Also, in February 2004, the Ministry commenced an ongoing follow-up program to help ensure that the filing of corporations tax returns is kept current.

## TAX RETURN PROCESSING

### Recommendation

*To ensure that filed returns can be processed and that the correct amount of tax is collected or refunded on a timely basis, the Ministry should follow up on missing information or, when necessary, verify information provided in returns on a timely basis.*

### Current Status

The Ministry advised us that an automated process has been set up to deal with corporations that file the current year's return but are in default of filing a prior year's return (since being thus in default, along with submitting returns where information is missing, are the two circumstances under which filed returns cannot be processed). The Integrated Tax Administration System (ITAS) automatically produces stage-one default letters that request that the return be filed. An automatic notepad entry is created that produces an audit trail. Approximately two months after the stage-one letter is sent, any taxation periods still in default are identified by ITAS. A stage-two letter is issued that informs the corporation that, if the return(s) is(/are) not received within 30 days, the Minister may issue an arbitrary assessment. ITAS identifies the accounts that have not responded to the stage-one and stage-two letters, and the accounts are forwarded for potential arbitrary assessment.

The number of returns that could not be processed because of missing prior years' returns has been reduced from 19,448 in December 2002 to 2,988 in June 2004. The Ministry has also improved the timeliness of its follow-up process for missing information by sending letters, on a more timely basis, detailing what information is required for the Ministry to process the return. Where information is required from the corporation in order to process a tax return, the Ministry sends an information request within 60 days.

## MINISTRY AUDIT ACTIVITIES REGARDING TAXPAYERS

## Audit Coverage

### Recommendation

*In order to meet its objectives of ensuring that corporations selected for audit declare and remit the correct amount of tax as well as encouraging broad-based voluntary compliance with the* Ontario Corporations Tax Act, *the Ministry should:*

- *conduct the planned number of discretionary desk audits of corporations with annual gross revenues of between $500,000 and $7 million; and*

- *consider the advisability of auditing, based on assessed risks, more corporations with annual gross revenues of under $500,000.*

*Alternatively, if the Ministry continues to rely on Canada Customs and Revenue Agency (CCRA) audits, the Ministry should obtain and monitor specific information about the CCRA small-business audit program so that it can assess whether the program is meeting its expectations and whether the Ministry's reliance on the CCRA audits is justified.*

### Current Status

The Ministry informed us that it resumed discretionary desk audits on October 1, 2003 and exceeded its audit coverage target for the second half of the 2003/04 fiscal year. The Ministry acknowledged the importance of discretionary desk audits and indicated that it was committed to meet its future targets as planned.

The Ministry also informed us that it has determined that some reliance on the Canada Revenue Agency (CRA) (formerly Canada Customs and Revenue Agency) for small business audits is justified. In addition, at the time of our follow-up the Ministry was formulating its own small-business audit strategy to complement that of the CRA.

The Ministry also created a new field audit group in 2003 to perform audits of exempt-from-filing declarations, tax credits, and smaller corporations on an ongoing basis. Full staffing of this unit was completed by mid-2004.

## Discretionary Field and Desk Audits—Audit Selection

### Recommendation

*To ensure that the Ministry's audit function meets the Ministry's compliance and tax collection objectives efficiently and effectively, the Ministry should ensure that:*

- *its audit selection process assesses the risk of significant non-compliance for all corporations and selects those with the highest assessed risk of significant non-compliance; and*
- *it monitors the range of corporations selected for audit to ensure that it is sufficiently diverse in terms of industry type and location to encourage broad-based, voluntary compliance.*

### Current Status

The Ministry informed us that a working group of audit managers was formed to consider various risk management tools to improve the audit selection process. The working group's report addressed the primary risks associated with verifying compliance with the *Ontario Corporations Tax Act* and contained recommendations for enhancing audit selection tools. The Ministry advised us that the recommendations were approved for implementation and are to be adopted through a phased-in approach.

The Ministry further advised us that, in accordance with a risk-based approach, a broader range of corporations is now being selected for audit. The Ministry has also created a new Audit Control and Analysis Unit that has responsibility for planning, setting, and monitoring audit coverage targets.

## Discretionary Field and Desk Audits—Audit Work Completed

### Recommendation

*To ensure that all necessary audit work is completed satisfactorily and that the work performed clearly establishes whether or not taxes owed have been correctly declared, the Ministry should ensure that:*

- *auditors identify and assess all potential risks of non-compliance by the corporation selected for audit and identify and prioritize all the audit work that needs to be performed;*
- *where reliance is to be placed on the work performed by the Canada Customs and Revenue Agency (CCRA), it obtains the necessary information about the CCRA audit activities to provide assurance that such reliance is justified;*
- *auditors use detailed audit programs that clearly indicate the nature and extent of audit work proposed and actually performed; and*
- *managers adequately document their input at the planning stage of an audit as well as their review and approval of the work performed.*

### Current Status

As well as being responsible for planning, setting, and monitoring audit coverage targets, updating audit manuals, and setting audit documentation standards, the Ministry's new Audit Control and Analysis Unit is to develop audit programs and provide technical training to all corporations tax audit staff, including those in the regional tax offices.

We were advised that where reliance is placed on audit work performed by the Canada Revenue Agency (CRA, formerly the Canada Customs and Revenue Agency) for a specific file, ministry auditors now review CRA working papers. They then document the relevant findings in their working papers to support their audit conclusions and any corresponding Ontario tax assessment. We were also advised that the Ministry has consulted with and continues to work with CRA on its competent authority process to deal with transfer pricing and related party transactions for Ontario-based corporations.

The new Audit Control and Analysis Unit also developed and implemented a new audit checklist in spring 2003 that managers are now required to complete for each audit file to provide evidence of their review of the file. Completion of the checklist will ensure that:

- audit standards are adhered to; and
- documentation is provided showing that the audit meets the planned scope and addresses all areas identified as high risk.

Also, auditors are now required to create an audit plan, which must be reviewed by their manager.

We were also informed that the Corporations Tax Branch has conducted a number of workshops that addressed the enhancement of audit working papers. A sub-committee of audit managers from all offices is to review existing working-paper standards and prepare enhanced standards for implementation in all corporations tax audit offices.

## Nominal Desk Audits

### Recommendation

*To ensure that provincial corporations tax assessments and reassessments resulting from federal assessments or reassessments are issued on a timely basis and do not become statute barred, the Ministry should ensure that it reviews all federal corporations tax assessments and reassessments and completes any required audit work to determine provincial corporations tax applicability on a timely basis.*

### Current Status

We were informed that additional desk audit staff had been assigned to work on the backlog of federal assessments and reassessments. We were also advised that a two-tiered approval system for nominal desk audits was implemented in November 2002 to increase the efficiency of reviewing corporations' federal assessments and reassessments, as well as other returns assigned for auditing. The Ministry informed us that with these measures, the backlog of federal assessments and reassessments had been reduced by 47% between May 2002 and January 2004 and that the timeliness of completing the required reviews had improved.

## TRAINING NEEDS

### Recommendation

*To help enable field and desk auditors to effectively and consistently address corporations tax issues and thereby improve tax collection efforts, the Ministry should:*

- *ensure that sufficient training that adequately addresses both technically complex issues and industry-specific high-risk areas is provided for both field and desk auditors; and*
- *consider funding, on an individual basis, training initiatives that would increase the individual auditor's knowledge base.*

## Current Status

In 2003, the Ministry committed to delivering five days of formal technical training per year to corporations tax audit staff. We were informed that in the 2003/04 fiscal year: seven-and-a-half days of training were provided for new and existing desk audit staff; 10 days were provided to new field audit staff; and five-and-a-half days were provided to existing field audit staff. According to the Ministry, the technical training unit established in 2002 continues to enhance, develop, and deliver technical training materials identified in the job-specific training plans developed for corporations tax audit staff. The unit is also responsible for updating the technical training materials for specialty audits in the areas of insurance companies, financial institutions, oil and gas corporations, and mining corporations. We were informed that the unit—initially funded and staffed on a temporary basis—now has permanent funding in place.

# TAX ADVISORY SUPPORT

## Recommendation

*To provide good taxpayer service and effectively utilize audit resources, the Tax Advisory Unit of the Corporations Tax Branch of the Ministry should:*

- *establish a standard completion time for formal requests for tax advisory services;*
- *address all formal legislative and interpretational requests from regional tax offices within the standard completion time established; and*
- *summarize and, where warranted, communicate all tax appeals decisions to all relevant parties in the appropriate manner and on a timely basis.*

## Current Status

The Ministry confirmed that a 90-day turnaround time for resolving taxpayer requests for legislative interpretations and rulings—which it believed to be reasonable in our 2002 audit—is achievable in the majority of cases. It also indicated, however, that some requests cannot be completed in 90 days due to their complexity.

To improve response times, all vacancies in the Tax Advisory unit were filled by late 2003. In addition, according to the Ministry, managers are now reviewing assigned inventory and following up with staff on a monthly basis in order to prioritize and resolve requests that have been outstanding for an unusually long period. The Ministry also indicated that—since August 2003—the unit has been summarizing significant tax appeals decisions and is developing a process for communicating the decisions to all relevant parties.

## TAX GAP

### Recommendation

*To help ensure the achievement of its objective of encouraging the highest possible degree of voluntary compliance from taxpayers and thereby reducing the tax gap, the Ministry should conduct research into the areas contributing to the tax gap and direct the necessary resources to minimize the tax loss.*

### Current Status

The Ministry informed us that it has been in contact with staff at the Internal Revenue Service (IRS) in the United States for information on a promising new methodology they are working on.

The latest IRS approach to estimating the income tax gap uses compliance and other data from a group of audited taxpayers to extrapolate compliance patterns among unaudited tax filers in a given year. IRS staff have noted that this approach is still in a developmental stage. This new methodology is data intensive, requiring very detailed information about the tax returns that have been audited. Such data has not been obtained in Ontario, but the Ministry indicated that it plans to gather such data in the future if sufficient staff resources become available. Once a database of such information exists, the Ministry intends to try to apply the IRS's approach.

The Ministry informed us that it will continue to monitor the research being done in this and other areas. It emphasized, however, that the science of estimating the tax gap is inherently inexact.

## MINISTRY OF HEALTH AND LONG-TERM CARE

# 4.03–Community Mental Health

## (Follow-up to VFM Section 3.03, *2002 Annual Report*)

## BACKGROUND

Through its Community Health Division, the Ministry of Health and Long-Term Care provides transfer payments to community agencies or general hospitals to deliver community-based mental health programs and to help cover the costs for sessional fees, homes for special care, and other housing with supports for individuals with mental illness. During the 2003/04 fiscal year, the Ministry provided approximately $411 million in transfer payments ($390 million in 2001/02) for community-based mental health services. The Ministry estimated that approximately 2.5% of the population of Ontario, or 300,000 people, are seriously mentally ill.

At the time of our 2002 audit, we concluded that many of the fundamental issues and concerns identified in our audits over the last 15 years had not been comprehensively addressed. In particular, the Ministry still did not have sufficient information to enable it to assess whether mentally ill people were adequately cared for and whether funding provided for community-based mental health services was being prudently spent. We also found that:

- The Ministry generally did not have standards and performance measures for community mental health and had only limited information about whether community mental health resources were being utilized efficiently and effectively.
- In many areas of the province there was still no comprehensive source of information about available mental health services or how to access those services. In addition, there was minimal co-ordination among agencies providing services.
- The Ministry was not tracking the number of people receiving or waiting for community mental health services or the waiting times to access services. This limited its ability to assess whether there were sufficient and appropriate resources to meet the needs of the seriously mentally ill.
- The Ministry had not determined the number or type of housing spaces required to meet the needs of seriously mentally ill individuals or whether existing housing was meeting the needs of the individuals already housed.

Also, the Ministry had not given sufficient consideration to the funding of community mental health agencies based on an assessment of the number of patients requiring services and the complexity of patients' needs.

- In the seven regions of the province, annual per capita funding for community mental health services ranged from $11 to $60. The funding was primarily historically based, rather than being based on the relative need for services and the costs of delivering services in different regions of the province. Funding based on assessed need helps ensure that individuals with similar needs have access to similar services regardless of where they live in the province.
- Since 1992, there had been no increases in base funding provided to community mental health agencies for programs that were operating at that time. One district health council noted that this forced community mental health agencies "to reduce services to the seriously mentally ill in order to stay within existing base budgets."

We also concluded that, to provide better accountability to the public and the Legislature, the Ministry needed to develop results-oriented performance measures and periodically report publicly on the performance of community-based mental health services in meeting the needs of the mentally ill.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

## CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ministry of Health and Long-Term Care between March and June 2004, limited progress had been made in addressing many of the recommendations in our *2002 Annual Report*. The current status of our recommendations is as follows.

### *MENTAL HEALTH REFORM*

#### Recommendation

*The Ministry should ensure that the necessary reforms, including best practices identified in the studies, are implemented as soon as possible in order to meet the needs of the seriously mentally ill.*

#### Current Status

The Ministry indicated that at the time of our follow-up it was conducting ongoing analysis of the nine Mental Health Implementation Task Force reports and the Final Report of the Provincial Forum of Mental Health Implementation Task Force Chairs, which were all completed by January 2003. In addition, the Ministry indicated that reform options and strategies were being considered.

## ACCOUNTABILITY

### Recommendation

*To better hold community mental health agencies accountable for the services provided and for the prudent management of the funds they receive, the Ministry should ensure that all basic elements of the Management Board of Cabinet Directive on Transfer Payment Accountability are addressed, including signed agreements that require recipients to achieve specific, measurable results.*

### Recommendation

*To help achieve ongoing improvements in providing community mental health services, the Ministry should:*

- *develop and implement appropriate performance measures that objectively measure the success of agencies in meeting the needs of the seriously mentally ill;*
- *regularly report publicly on performance, including reporting on the impact of mental health reform; and*
- *take corrective action where required.*

### Recommendation

*To help ensure that resources are utilized efficiently and are achieving their intended results, the Ministry should:*

- *ensure that it has adequate information to make planning and funding decisions; and*
- *require that agencies submit information on the number of seriously mentally ill individuals who received their services.*

*To help ensure that community mental health agencies provide high-quality programs, the Ministry should:*

- *establish standards against which programs can be evaluated; and*
- *implement agency reviews focusing on those agencies identified as high risk.*

### Current Status

The Mental Health Accountability Framework, which includes performance indicators, was issued in spring 2003, and the development of service standards was ongoing at the time of our follow-up. In addition, a Transfer Payment Agency Operating Manual was distributed in February 2004, and agreements with most transfer-payment recipients have been signed.

The Management Information System and Common Data Set—Mental Health, which incorporate performance measures and data collection and reporting requirements, were piloted. A review of the pilot was underway at the time of our follow-up, with results to be reported in mid-summer 2004. However, full implementation of the system was on hold pending funding availability. We were informed that public reporting would commence in the 2004/05 fiscal year. However, the Management Information System and Common Data Set would have to be fully implemented to provide the information necessary for regular public reporting on performance.

In addition, the Common Data Set—Mental Health is intended to capture information on services provided by community mental health agencies to seriously mentally ill individuals. Such information could help improve planning and evaluation of mental health programs.

As for the implementation of agency reviews, the Ministry informed us that no specific criteria had been identified to determine which agencies to review. However, the Ministry stated that it does identify problem agencies and that four agency reviews had been undertaken.

## *ACCESS TO COMMUNITY MENTAL HEALTH SERVICES*

### Recommendation

*To help ensure timely and equitable access to services, the Ministry should:*

- *review the feasibility of further co-ordinating access to services, including establishing common intake and assessment criteria;*
- *obtain and analyze overall waiting lists and waiting times to help determine the need for specific types of services; and*
- *ensure that public information on community mental health services and how to access those services is readily available.*

### Current Status

According to the Ministry, at the time of our follow-up common intake criteria had been implemented for children's mental health services but not for adult mental health services. In addition, detailed plans had been developed to support a provincial mental health registry to improve access to mental health services. This registry would provide Ontarians with current information about agency capacity and availability. However, implementation of the registry was on hold pending funding.

The Ministry informed us that waiting list statistics had been included in both the Management Information System and Common Data Set—Mental Health; however, since full implementation of the initiatives was on hold pending funding, overall waiting list data were not available at the time of our follow-up.

## INFORMATION SYSTEMS

### Recommendation

*To better support the provision and co-ordination of community mental health services, the Ministry should design, implement, and appropriately utilize a mental health information system that captures relevant service and client data.*

### Current Status

In addition to the previously mentioned Management Information System and the Common Data Set—Mental Health pilot project, a proposal had been made for a "client linkage system," which would provide an up-to-date inventory of mental health services and comprehensive client-specific information to enable lead agencies to make appropriate referrals to mental health services. However, we were informed that the proposal would not proceed further until a comprehensive privacy assessment study was done. At the time of our follow-up, the Ministry had not established a time frame for completing this study.

## HOUSING

### Recommendation

*To help address the long-standing problem of affordable and appropriate housing for the seriously mentally ill, the Ministry should:*

- *assess the number and types of housing units needed in different areas of the province and whether ministry-funded housing is meeting the needs of individuals already housed; and*
- *take appropriate steps to address the assessed housing needs.*

### Recommendation

*To help ensure that the Mental Health Homelessness Initiative is meeting its objectives of providing housing with supports to seriously mentally ill individuals, the Ministry should:*

- *establish a formal process to obtain information about occupancy in housing purchased with ministry assistance;*
- *establish accountability agreements with all agencies; and*
- *ensure that funding is only provided for properties that are able to provide housing and support services for people with serious mental illnesses.*

### Recommendation

*To help ensure that supportive housing serves individuals who are seriously mentally ill and to assist in assessing the need for additional housing, the Ministry should:*

- *determine the extent to which existing housing is actually targeting and serving individuals who are seriously mentally ill; and*
- *ensure that first priority is given to the seriously mentally ill.*

### Recommendation

*To ensure that Homes for Special Care provide appropriate and consistent resident care across the province, the Ministry should ensure that:*

- *inspections of the homes are completed and followed up on and deficiencies are corrected on a timely basis; and*
- *adherence by the homes to minimum standards of care is a condition for licence renewal.*

### Current Status

The Ministry indicated that at the time of our follow-up ministry staff were reviewing the housing requirements that were identified for all areas of the province in the reports issued by the mental health implementation task forces. Implementation strategies and additional housing support strategies were being considered.

Phase II of the Mental Health Homelessness Initiative was announced in November 2000 to provide, over a two-year period, at least 2,600 additional supportive housing units throughout the province for seriously mentally ill individuals who were homeless or at high risk of homelessness. The Ministry informed us that 95% of these housing units were in place at the time of our follow-up.

According to the Ministry, information was not available on whether all existing properties under the Initiative were providing housing and support services to persons with a serious mental illness. However, accountability agreements had been established with most agencies.

Full implementation of the performance measures and data collection and reporting requirements of the Management Information System and Common Data Set—Mental Health should provide additional information on housing needs and occupancy, including information on housing and occupancy under the Mental Health Homelessness Initiative; however, as mentioned, such implementation was on hold pending funding.

The Ministry indicated that at the time of our follow-up all Homes for Special Care had been inspected and were compliant. The Ministry further stated that it was working to improve the timeliness and co-ordination of inspections and that all compliance issues raised during inspections were being tracked until they were resolved.

The Operating Guidelines for Homes for Special Care manual, which includes standards of care, was updated in spring 2004. Although the operating guidelines do require that homes not complying with the standards of care take corrective action, adherence to such standards of care was not a specific condition for licence renewal.

## ASSERTIVE COMMUNITY TREATMENT

### Recommendation

*To help ensure the efficient, effective, and appropriate use of Assertive Community Treatment (ACT) teams, the Ministry should:*

- *determine the required number and distribution of ACT teams for the province;*
- *monitor ACT teams to ensure that they are serving the seriously and persistently mentally ill target population; and*
- *ensure there are adequate services available to meet the needs of individuals no longer requiring ACT services.*

### Current Status

The Ministry informed us that, according to recent reviews of available information—such as Community Assessment Project reports, Mental Health Implementation Task Force reports, and expert opinion—between 20 and 40 additional ACT teams could be utilized across the province if funding were available. The same available information would help determine the distribution of the teams, with the Ministry's regional offices making the final decision.

The Ministry indicated that the third monitoring and outcome survey for all ACT teams was completed in December 2003. This survey affirmed that ACT teams were adhering to standards and meeting targets. For future monitoring, information on ACT teams is to be collected if and when the performance measures and data collection and reporting requirements of the Management Information System and Common Data Set—Mental Health are fully implemented.

The Ministry advised us at the time of our follow-up that providing services to individuals no longer requiring the intensity of an ACT team had not been an issue to date. This is because Ontario's teams are fairly new, and it could take a number of years before "step-down services" are appropriate. When such services do become necessary, the Ministry plans to provide them through existing or enhanced case management services.

## FUNDING

### Recommendation

*To ensure that community mental health funding provided to regions and agencies is reasonable and equitable, the Ministry should develop a process that provides funding based on an assessment of services needed and of the resources required to meet those needs.*

### Current Status

According to the Ministry, at the time of our follow-up obtaining information on services needed and resources required was awaiting the full implementation of the performance measures and data collection and reporting requirements of the Management Information System and Common Data Set—Mental Health.

## MINISTRY OF HEALTH AND LONG-TERM CARE

# 4.04–Long-Term Care Facilities Activity

## (Follow-up to VFM Section 3.04, *2002 Annual Report*)

## BACKGROUND

Long-term-care facilities provide care and services to individuals who are unable to live independently at home and require the availability of round-the-clock nursing service to meet their daily nursing and personal care needs. These facilities comprise nursing homes and homes for the aged. Private rest homes and retirement homes are not covered by the Long-Term Care Facility Activity and do not receive ministry funding.

The Ministry's key responsibility regarding the operations of long-term-care facilities is to ensure that they are delivering services to residents in accordance with their service agreements with the Ministry and in compliance with applicable legislation and ministry policies. For the 2003/04 fiscal year, long-term-care facilities received approximately $2.1 billion in funding from the Ministry ($1.6 billion in 2001/02) and approximately $985 million in accommodation payments from residents ($793 million in 2001/02).

In 2002, we concluded that, in certain significant respects, the Ministry did not have all of the necessary procedures in place to ensure that long-term-care resources were managed with due regard for economy and efficiency and that long-term-care facilities were complying with applicable ministry policies. A number of our concerns were also reported on in our *1995 Annual Report*. Our main concerns were as follows:

- The Ministry had not developed facility staffing standards or models for staff mixes for providing quality care. Accordingly, the Ministry did not have a sufficient basis for determining appropriate levels of funding.
- The Ministry had not addressed the results of a 2001 consulting report that noted that residents of Ontario's long-term-care facilities received fewer nursing and therapy services than those in similar jurisdictions with similar populations.
- Although the Ministry inspected all long-term-care facilities in 2001, it did not adjust the depth of its inspections for facilities with a history of failing to meet ministry quality standards. We also noted that, contrary to legislation, none of the nursing homes in Ontario had current ministry-issued licences at the time of our audit. At least 15% of licences had expired more than one-and-a-half years earlier. As well, most nursing homes that opened after 1998 had never been issued a licence.

- The Ministry was not adequately tracking complaints, unusual occurrences, and outbreaks of contagious diseases to identify and resolve systemic problems.
- Surplus funds were not being recovered from facilities on a timely basis. Ministry delays in completing reconciliations for the 1999 calendar year resulted in approximately $5 million in interest expenses being passed on to the taxpayers.

We also concluded that the Ministry's procedures for providing accountability to the public and ensuring that facilities provide services efficiently and effectively were impaired by:

- insufficient financial information from facilities to allow the Ministry to determine whether funds had been used in accordance with the Ministry's expectations; and
- the lack of outcome measures to address the appropriateness of services provided, including the quality of care received by residents.

Through its long-term-care redevelopment project, the Ministry allocated funding to build new long-term-care facilities containing approximately 20,000 new beds to regions of the province where the need for additional beds was the greatest. The Ministry was also providing financial assistance to ensure existing facilities meet minimum structural and environmental standards. However, the Ministry did not have a process in place for periodically reviewing whether its target of 100 beds per 1,000 individuals aged 75 and over was appropriate.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take action to address our concerns.

## CURRENT STATUS OF RECOMMENDATIONS

According to information obtained from the Ministry of Health and Long-Term Care, some progress has been made on implementing the recommendations in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

### *MONITORING QUALITY OF CARE*

### Annual Inspections

#### Recommendation

*To help ensure that long-term-care facilities meet the assessed needs of each of their residents, the Ministry should:*

- *ensure senior management assesses the results of annual facility inspections for possible corrective and preventive action;*

- *implement a formalized risk-assessment approach for its annual inspections that concentrates on facilities with a history of non-compliance and prioritizes inspection procedures;*
- *ensure consistency in the application of standards;*
- *establish acceptable notification periods and conduct surprise inspections of high-risk facilities to reduce the risk that facilities will "prepare" for an inspection; and*
- *evaluate the experience and skills required to inspect facility operations and ensure the appropriate mix of specialists is available.*

### Current Status

The Ministry informed us that the following actions had been taken with respect to our recommendation at the time of our follow-up:

- Regional Directors were assessing inspection results for corrective and preventative actions where required.
- In addition, in February 2003, a Corporate Enforcement Unit—with the responsibility of monitoring high-risk facilities and co-ordinating the Ministry's enforcement activities—was created. The Ministry also indicated that improvements had been made in formalizing a risk-based approach for annual inspections.

  As a first step in the development of a risk management framework, a preliminary exercise was conducted to screen all long-term-care facilities using a standard set of risk indicators in order to identify those long-term-care facilities that would require enhanced risk reviews. The enhanced risk reviews for all facilities thus identified were completed in June 2004. According to the Ministry, ongoing work will be done on the risk management framework in order to improve its effectiveness, and the framework will be used on a continual basis.
- Care program and service standards were being redrafted to ensure consistency in application. All ministry Compliance and Enforcement staff were to receive training based on the new standards, and an information system to support standardized compliance reporting was being tested.
- Effective January 1, 2004, all compliance inspections and investigations were being conducted without advance notice to the facility.
- Regional Directors were ensuring that compliance and enforcement staff had the appropriate experience, skills, and qualifications. The Ministry was also strengthening a multi-disciplinary approach to inspections involving registered nurses, registered dieticians, and environmental specialists.

## Health and Safety of Residents

### Recommendation

*To better protect the health and safety of residents of long-term-care facilities, the Ministry should ensure that all:*

- *complaints are investigated and responded to in a timely manner;*
- *unusual occurrences and outbreaks of contagious infections are reported to the Ministry and recorded in its Facility Monitoring Information System on a timely basis; and*
- *complaints, unusual occurrences, and outbreaks of contagious infections are assessed in relationship to annual facility inspection results to identify and resolve systemic problems.*

### Current Status

In addition to the regular channels through which the Ministry receives complaints, a toll-free number (1-866-434-0144) was established to receive and register complaints and comments regarding long-term-care residents and facilities. According to the Ministry, an initial response standard of two business days is in place and will be maintained.

According to the Ministry, all facilities had begun recording all unusual occurrences in the Facility Monitoring Information System by June 2002. All regions began recording these occurrences on a monthly basis in 2003. By March 2004, all regions had begun recording outbreaks of contagious diseases in the system.

The Ministry advised us that it was analyzing the information stored in the Facility Monitoring Information System to better identify and resolve any systemic problems. In addition, to ensure that infection control systems are in place and to prevent future recurrences, ministry staff review complaints, unusual occurrences, and outbreaks (including contagious infections) as part of the annual review process for each facility. The Ministry had also issued SARS directives for long-term-care facilities and standards for comprehensive infection control programs for certain respiratory illnesses in non-acute-care institutions such as long-term-care facilities.

## Facility Licences and Service Agreements

### Recommendation

*To help ensure that ministry policies and legislation regarding long-term-care facilities are followed and that long-term-care service providers understand their responsibilities, the Ministry should ensure that all long-term-care facilities have valid service agreements and that each facility's compliance status is taken into account.*

*The Ministry should also ensure that all nursing homes have valid licences as required by legislation.*

**Current Status**

The Ministry indicated that service agreements covering the year 2004 were distributed to facility operators in January 2004 for execution.

The Ministry also indicated that all licences were current and remained up to date and that ongoing renewals occur throughout the year.

## PER DIEM FUNDING

### Level-of-care Classifications

**Recommendation**

*To help ensure fairness in the levels of funding provided to long-term-care facilities, the Ministry should adjust funding where warranted as a result of any level-of-care classification audit in accordance with its policy.*

**Current Status**

According to the Ministry, since April 2003 a policy has been in place whereby funding is adjusted upward or downward where warranted as a result of level-of-care classification audits.

### Reasonableness of Per Diem Funding

**Recommendation**

*To help ensure that the funding provided to long-term-care facilities is sufficient to provide the level of care required by residents and that the assessed needs of residents are being met, the Ministry should:*

- *verify the reasonableness of the current standard rates for each funding category and develop standards to measure the efficiency of facilities providing services;*
- *track staff-to-resident ratios, the number of registered-nursing hours per resident, and the mix of registered to non-registered nursing staff and determine whether the levels of care provided are meeting the assessed needs of residents; and*
- *develop appropriate staffing standards for long-term-care facilities.*

**Current Status**

In August 2002, the Ministry announced a $100-million increase to the nursing and personal care funding envelope; and on July 1, 2003, it increased funding to long-term-care facilities by an additional $100 million across all funding envelopes to "improve resident care, programming and overall quality of life."

The Ministry advised us that in March 2003 it distributed a survey to determine how each facility spent the August 2002 $100-million increase. The results of the survey have been posted on the Ministry's Web site and indicated that the facilities increased their staffing and care levels, time spent with residents, and quality programming. The Ministry also indicated that the appropriate level of funding is determined by the annual classification assessments that identify residents' level-of-care requirements. Each year funding is adjusted according to changes in the resident population's care requirements.

The Ministry also indicated that, while it funds facilities using a resident-needs-based funding formula, facility operators are required to ensure staffing mixes and patterns are sufficient to meet the needs of residents. Nevertheless, the Ministry informed us that to enhance its ability to assess resident care and staffing needs and to identify resource requirements, it was reviewing the implementation of the common assessment instrument, known as the Minimum Data Set.

As for the development of staffing standards, the Ministry informed us that, commencing in 2004, it had strengthened the reporting requirements in service agreements. The 2004 service agreement introduced a provision that enables the Ministry to request that facility operators provide information regarding levels of service, staffing, and any other matter relating to the operation of a facility. The Ministry further stated that during annual reviews and other inspections, compliance staff monitor and evaluate staffing patterns of facilities. The means of evaluating staffing patterns include:

- determining staff deployment using a tool that captures numbers of all registered and non-registered staff in all resident floors and/or care areas;
- assessing in depth the care needed by and provided to residents using a standardized provincial assessment tool that gathers the relevant information;
- observing resident grooming, positioning, call-bell access, and so on, by walking through all resident areas; and
- reviewing call-bell response times.

## Annual Reconciliations

### Recommendation

*To help ensure surplus funding to long-term-care facilities is accurately identified and returned to the province on a timely basis, the Ministry should ensure that:*

- *audited financial information provided by facilities meets ministry needs; and*
- *reconciliations are completed and surpluses recovered on a timely basis.*

### Current Status

The Ministry indicated that it reviews each year the audited annual reconciliation report submitted by each facility to ensure that it is meeting the Ministry's needs. The Ministry also indicated that—in response to a report from the Parliamentary Assistant to the Minister of Health and Long-Term Care—it is planning a funding and accountability review of the Long-term Care Facility Activity.

According to the Ministry, the annual financial reports for 2002 were reconciled by December 31, 2003, and surplus funding for ineligible items was recovered. The Ministry also indicated that annual financial reports for the year 2003 would be reconciled by December 31, 2004.

# THE LONG-TERM CARE REDEVELOPMENT PROJECT

## Supply of Long-term-care Beds

### Recommendation

*To help ensure that the need for long-term-care beds is met on a timely basis, the Ministry should:*

- *conduct research to determine whether its target of 100 beds per 1,000 individuals aged 75 and over is appropriate; and*
- *develop a strategy to address the results of the research.*

### Current Status

According to the Ministry, at the time of our follow-up policy work was being conducted on a Seniors Health Strategy, which "will review the full range of services available to seniors and make recommendations about programmatic responses." Completion of the Strategy was scheduled for the summer of 2004.

## Capital Redevelopment Plan

### Recommendation

*The Ministry should ensure that the per diem paid to long-term-care facilities for capital construction are consistent with the actual construction costs incurred.*

### Current Status

The Ministry indicated that it had developed and implemented guidelines for consistent review and approval of audited statements of final capital costs that are submitted by facility operators. The Ministry also indicated that it was closely monitoring and following up with facility operators in order to ensure that the per diems paid to facilities (over a 20-year period) to cover the cost of capital construction are consistent with the actual construction costs incurred.

## ALLOCATION OF NEW BEDS

### Recommendation

*To help demonstrate that awards for new long-term-care beds are based on a fair and open process that is consistently and objectively applied, the Ministry should ensure that the justification for all decisions is properly documented.*

### Current Status

The Ministry indicated that it would ensure that the justification for all decisions is properly documented.

## Structural Compliance

### Recommendation

*To help ensure that funding for structural compliance is fair and to encourage facilities to meet the new design standards, the Ministry should:*

- *ensure all facilities are properly classified;*
- *review the structural compliance premiums to ensure that they are equitable and are achieving their intent; and*
- *consider providing incentives for facilities to upgrade their classifications.*

### Current Status

The Ministry advised us that it was developing policies on asset management and facility renewal that would consider the recommendations in the Provincial Auditor's report. The policies were to be completed in late 2004.

## PERFORMANCE MEASURES

### Recommendation

*To provide better accountability to the public and to help ensure that services of long-term-care facilities are provided efficiently and effectively, the Ministry should:*

- *establish program goals, performance measures, and benchmarks and use them to assess performance;*
- *take corrective action where necessary; and*
- *report publicly on performance achieved.*

### Current Status

The Ministry informed us that its work on developing a risk management framework includes data review and analysis and the identification of performance measures relating to achieving objectives, including the objectives relating to quality of care and levels of service in facilities. The framework is intended to help ministry staff assess and manage risk in long-term-care facilities, provide feedback to operators as quickly as possible, and establish "consumer-friendly public status reporting." Until such reporting is established, the primary reporting requirement is that each facility publicly post compliance reports of annual reviews and special visits.

## MANAGEMENT BOARD SECRETARIAT

# 4.05–Electronic Service Delivery

### (Follow-up to VFM Section 3.05, *2002 Annual Report*)

## BACKGROUND

Many governments, including Ontario, are increasingly using electronic means both to provide information about government services to individuals and businesses and to deliver some of those services. This method of providing services is known as electronic service delivery (ESD). Through ESD, the government is organizing and integrating services by such electronic means as call centres, interactive voice-response systems, Web sites, e-mails, faxes, CD-ROMs, public access terminals and kiosks, and electronic payment systems.

In June 2000, the Management Board of Cabinet approved a government-wide ESD strategy aimed at improving the quality of service to Ontarians and businesses by providing client-focused, integrated, accessible, and cost-effective government services electronically. The government committed to increasing Ontarians' satisfaction by becoming a world leader in delivering services on-line by 2003. Management Board Secretariat (MBS) is responsible for the implementation of the government's ESD strategy.

In our *2002 Annual Report,* we noted that significant strides had been made in implementing ESD; however, we concluded that the government would likely fall short of meeting its ESD targets if it did not accelerate the pace of ESD implementation. As well, a more proactive and hands-on central management of the ESD initiative was needed. Specifically:

- Ministry quarterly reports on the delivery of ESD projects showed that 52% of ministries' ESD projects were behind target in June 2001, in that they had not yet been initiated as planned or had been delayed or deferred in some manner. By December 2001 even more ESD projects were not on target.
- The ability of the E-government Branch (Branch) to conduct meaningful analysis of the current status of projects vis-à-vis those originally planned was impaired. Projects had been dropped, delayed, deferred, redefined, or combined in a myriad of ways. Although this can happen for valid reasons, the Branch did not have sufficient documentation of the reasons for many of these changes. In addition, ministry quarterly reports were being provided six months behind schedule.
- The Branch was responsible for the government-wide ESD plan, but its authority to deliver on this plan was limited, and its reporting to senior management had not been timely and was lacking in recommendations for future action.

- The funding needed to deliver ESD projects was not addressed when the ESD strategy was approved. Lack of resources was the reason cited most often by ministries for their inability to deliver on planned projects.
- The Branch had set 2001/02 and 2003 performance targets for customer satisfaction, world leadership, and ESD project leveraging. Although a survey of current ESD services indicated that the 2001/02 customer satisfaction targets were achieved, the Branch had no conclusive evidence that it was meeting its goal of Ontario being among the world's 10 best jurisdictions in delivering electronic services, nor was there evidence that ESD projects were integrated, that they leveraged a common I&IT infrastructure, or that they incorporated common components.

  In addition, ESD performance measurement efforts to date had been poorly co-ordinated between the Branch and the ministries delivering ESD programs, and operational or efficiency improvement measures, or assessments of the economic costs and benefits of ESD projects, had not yet been developed.
- Communications efforts to promote ESD had been insufficient to increase public awareness and usage of the services delivered electronically. Usage of some ESD services was significantly below target levels.

We reviewed four high-impact service-delivery projects at the ministries visited and noted that, while the ministries had implemented a number of good project management practices on these priority projects, with respect to security practices and service availability, there was some room for improvement.

We made recommendations for improvements in each of these areas and received commitments from MBS and the ministries that the necessary corrective actions would be taken.

# CURRENT STATUS OF RECOMMENDATIONS

In March 2004, MBS advised us of the current status of the actions taken to address each of our recommendations. We are pleased to note that substantial progress appears to have been made in addressing most of the recommendations in our *2002 Annual Report*, as detailed in each of the following sections.

## *PROGRESS REPORTING*

### Recommendation

*To ensure that ministry progress in completing improvement projects for electronic service delivery (ESD) is adequately assessed and timely corrective action is initiated where appropriate, Management Board Secretariat should:*

- *require that all ministries submit their required reports on time and formally follow up when they fail to do so;*
- *track the service improvements identified in the original ministry ESD plans and compare them to expected and actual results so that a complete assessment of ESD accomplishments vis-à-vis original targets can be made;*
- *consider initiating formal follow-up procedures and asking ministries who are significantly behind target to develop corrective action plans; and*
- *analyze all submitted reports and provide a summary analysis with recommendations on a timely basis to the Chair of Management Board of Cabinet and appropriate ESD advisory committees.*

### Current Status

To better co-ordinate and streamline the reporting process, MBS now has an on-line ESD progress-reporting and performance measurement tool for submitting required ministry reports. They further advised us that they had followed up with all ministries to ensure completion of outstanding reports and that all required reports had been received by the end of December 2003. With respect to the tracking of planned service improvements, MBS advised us that the original ESD plans have now been fully tracked by comparing original data with the information provided by the ministries in three sets of progress reports: the 2002/03 and 2003/04 business-planning progress reports, and the June 2003 progress reports. Analysis work on all reports was completed in March 2004 and a summary report was submitted to the Chair of Management Board detailing the extent to which the Ontario Public Service (OPS) met its 2003 ESD goals.

## *THE FUNDING OF INITIATIVES*

### Recommendation

*To ensure appropriate funding of electronic service delivery (ESD) initiatives, Management Board Secretariat should:*

- *review the current funding mechanisms for ESD initiatives to determine if alternatives to the current funding model should be considered;*
- *ensure funding provided is directed at the most strategic initiatives from a government-wide perspective; and*
- *consider developing a proposal to centrally fund the delayed ESD projects that are most critical to improving program delivery.*

### Current Status

Although MBS has completed a review of various alternative funding models, no changes have yet been made to the approach for funding ESD projects. Projects continue to be funded on an initiative-by-initiative basis through each ministry's annual Results-Based Planning process or by the in-year Management Board Submission process. Other options to secure funding for projects, including ESD projects and initiatives, include making submissions for funding from the Change Fund. This fund finances projects that lever transformation, result in future cost savings or cost avoidance, and demonstrate tangible benefits.

# *PERFORMANCE MEASUREMENT*

## Customer Satisfaction and World Leadership Status

### Recommendation

*To improve the performance of electronic service delivery (ESD), Management Board Secretariat should:*

- *expand current benchmarking exercises to include more types of electronic service delivery; and*
- *use and disseminate the results of benchmarking studies to help ministries identify areas needing improvement and develop action plans to implement the required improvements.*

### Current Status

In assessing overall progress towards meeting its ESD goals, MBS reported that it is doing so in terms of two approved performance measures: 1) customer satisfaction with electronic services, and 2) Ontario as a world leader in delivering services electronically.

With respect to measuring customer satisfaction, MBS continues to monitor this through the commissioning of third-party surveys. Results from the 2003 survey indicated an overall satisfaction level of 71% by Ontario government ESD service users, exceeding the target of 70% for that year.

For 2004, a satisfaction rate of 75% was set, and once again a survey was conducted in February 2004 to determine if this higher target had been met and to identify areas for further improvement. The results indicated that there had been a small drop in satisfaction, with the overall rate slipping to 69%. On the plus side, users reported higher satisfaction with the quality of information obtained from the government Web sites and with the speed and clarity of responses to e-mail and fax correspondence. They also reported higher levels of confidence in the security of fax and e-mail interactions. However, lower satisfaction was reported with government telephone systems; automated telephone response and routing systems yielded the lowest satisfaction rates, with Ontario residents and businesses indicating problems navigating and obtaining successful outcomes from these systems. MBS stated that it also plans to use the survey results as part of an effort to establish universal service standards for electronic delivery of services across the OPS.

World leadership continues to be assessed periodically through benchmarking studies, conducted by external organizations, that use a variety of techniques to compare Ontario's on-line services with those of other jurisdictions. We were advised that in two recent benchmarking studies, one ranked Ontario in the top quartile (25%) of 250 organizations studied and the other placed Ontario third among 60 jurisdictions.

## Leveraging and Integration

### Recommendation

*To ensure that electronic service delivery (ESD) is integrated, Management Board Secretariat should:*

- *clearly define the meaning of "leveraged" ESD initiatives and benchmark ESD projects against this target;*
- *complete the development of a common information and information technology (I&IT) infrastructure;*
- *complete the "21 common-component project" as soon as possible so that the efficiency gains and effectiveness of these components can be realized wherever feasible in existing and future ESD projects;*
- *develop a strategy for system integration of legacy systems with the newer "front-end" Web server systems; and*
- *develop a strategy to continually standardize ESD interfaces throughout the government to achieve a common "look and feel."*

### Current Status

Although no clear definition was developed as to what "leveraging" meant, in essence the goal envisaged using already developed government-wide infrastructure, system resources, and applications wherever possible in project development. By taking advantage of such existing infrastructure and systems, a leveraged project would not have to be developed from scratch, thus saving both time and resources.

In terms of ensuring that ESD projects are integrated, MBS indicated that it has established a standard ESD tool kit that will help ministries integrate, rationalize, and prioritize ESD projects.

MBS advised us that development work on six of the common components has now been completed and these applications are available for use by all ministries. For example, the e-forms common component was recently used to develop a pre-budget electronic survey, and a search tool has been incorporated as a common component for users of the public sites of several ministries.

We were advised that work continues on the integration of legacy systems with the newer "front-end" Web server system. For example, the Ministry of Transportation (MTO) has now implemented several mid-tier services for vehicle, driver, and carrier inquiries on a common platform. Other mid-tier implementations in place or in progress at MTO include improvements to the driver-medical-record inquiry system and systems used for licence plate renewals, driver address changes, and the provision of used vehicle information.

With respect to the "look and feel" of ESD interfaces, MBS advised us that, following public focus-group testing and internal consultations, a new look for government Web sites has now been developed and is awaiting formal approval. A communications plan is being developed that will incorporate a strategy for training ministry IT staff on the new standards, once implemented, and provide ministries with milestone dates by which compliance with the new standards will be expected. Once the standards are implemented, MBS intends to conduct periodic audits to identify and deal with Web sites that do not conform to the standards.

## Other Performance Measures

### Recommendation

*To ensure accurate and useful performance measurement of the government's ESD initiatives, the Branch should:*

- *develop additional approaches to ESD performance measures that include a mix of external and internal targets and improved business case methodologies; and*
- *work with ministries to help them develop performance measurement approaches in an integrated manner across program areas.*

### Current Status

In August 2003, MBS provided a customized report to each deputy minister assessing his or her ministry's current ESD performance. These reports advised ministries how they could improve both their performance outcomes and their performance measures.

With the maturing of the ESD Strategy in 2003, MBS has indicated that it is not developing new ESD measures. Instead, a new I&IT performance measurement framework will be used to establish measures for assessing I&IT enterprise performance. Specific performance measures are being developed that fulfill central reporting needs and ministries' needs to measure their own performance.

With respect to business cases, MBS has now developed an on-line ESD tool to improve and standardize business case methodologies across the government. We were informed that this tool, which includes a performance-measure module, has been successfully piloted with several ministries.

MBS also indicated that it has partnered with the federal government, through the Institute of Citizen Centered Services, to enhance the common measurement tool it uses in its annual customer-satisfaction survey.

## PROMOTION AND COMMUNICATIONS

### Recommendation

*To maximize the public's use of electronic service delivery (ESD), Management Board Secretariat should:*

- *develop and deliver an ongoing communication campaign that builds consumer awareness of ESD and promotes its use;*
- *work with ESD ministries to help them ensure consistent messaging and co-ordination of promotional efforts;*
- *where specific penetration targets are set for particular ESD applications, help ministries develop commensurate promotional strategies to achieve those targets; and*
- *consider differential pricing strategies where ESD offers a promise of providing significant long-term cost savings in program delivery.*

### Current Status

A communications plan to promote awareness and understanding of the range of e-government services available to the public was approved in January 2003 and shared with ministry communications directors in February. The plan is to be used for all announcements by ministries regarding their ESD initiatives. MBS also provided ministries with additional guidance on consistent corporate messaging and practices for the launch of ESD applications aimed specifically at consumers. These communications strategies cover the period from 2003 through 2007. Ministries are continuing to promote integrated services, including new Web sites for consumers and businesses that will provide one-stop access to information and services, such as the Collaborative Seniors' Portal and HealthyOntario.com.

With respect to pricing strategies, the Ministry of Consumer and Business Services advised us that it is currently developing an Integrated Service Delivery Strategy designed to break down the barriers to ESD acceptance, including a pricing component that will encourage ESD use.

MBS has also advised us that it has collected data and developed plans with respect to fee structures and revenues across the OPS, and that there is now a process in place to ensure that all new service fees are applied on a consistent basis.

## DEVELOPMENT AND DELIVERY OF ELECTRONIC SERVICES

### Security

#### Recommendation

*To ensure that confidential data is better protected against unauthorized access and potential tampering, Management Board Secretariat and the ministries should:*

- *centrally establish an intrusion detection service providing coverage 24 hours a day, seven days a week, to ensure continuous monitoring of the Ontario government network;*
- *explore the possibility of using more secure mechanisms, such as personal digital certificates, to authenticate the identity of individuals transacting with the government through the Internet;*
- *consider completing threat risk assessments for all major existing services delivered electronically to ensure data is adequately protected;*
- *consider cryptography or other controls to secure data transmitted over the government's internal and external networks until alternative arrangements, such as a centrally administered public key infrastructure system, are in place to ensure data confidentiality and integrity;*
- *segregate system duties such that individuals are not assigned incompatible system rights; and*
- *implement more rigorous controls over system passwords and user accounts to protect system resources and user accounts.*

#### Current Status

MBS advised us that the government's Information Protection Centre is now operational 24 hours a day, seven days a week; further, this enhancement has improved network security and responses to recent virus attacks. A number of security officers are now in place to ensure adherence to security policies and to take appropriate action in security-threat situations; as well, many new security procedures have been developed, approved, and disseminated.

MBS also informed us that a security intranet was launched in September 2003, a security program for managers was introduced in fall 2003, security computer-based training for employees is under development, and 19 sessions covering security issues have been held with ministry senior management teams.

Work is also underway on an Integrated Security Interface (ISI) to control access to government programs and services and ensure that security and privacy are consistently enforced within the government network. A request for information was released in December 2003. A request for proposals for this project is expected to be released by March 2005.

The Ministry of Consumer and Business Services has advised us that additional internal safeguards have been put in place at Ontario Business Connects to address all the security concerns raised in our report. For example, in July 2002 enhanced security protocols were put into place at its systems facility, including more frequent password changes and the addition of new hardware to physically secure servers. Staff training was provided to ensure the new protocols are adhered to. In September 2002 duties related to administration and operations were segregated, and in March 2003 the system was updated so that all data transmitted are now encrypted.

MBS also informed us that Threat Risk Assessments (TRAs) are being done for all critical services, with TRAs completed on 11 systems in 2002/03. The Ministry of Transportation (MTO) advised us that TRAs have been completed for four new systems projects, and that it is now conducting TRAs for all new initiatives. In addition, all organizations authorized to access MTO data via the Internet must now do so through a virtual private network (VPN) security system, and the Ministry has begun to use and issue public key infrastructure (PKI) certificates for access to driver medical updates and for wireless inquiry services.

The Ministry of Training, Colleges and Universities has advised us that it completed its outstanding TRAs in August 2002 and is now conducting them for all new initiatives. Segregation of duties for operations is still in progress, but access to sensitive commands has been removed from operations.

## Service Availability

### Recommendation

*To ensure a high availability of electronic services and that all collected client data remains complete and accurate:*

- *Management Board Secretariat should develop standards and policies to address systems availability;*
- *the Ministry of Transportation should review its hardware performance and capacity needs to ensure its systems can provide appropriate service levels to the public; and*
- *the Ministry of Training, Colleges and Universities should consider instituting a process of real-time backup for the application data relating to the Ontario Student Assistance Program.*

## Current Status

MBS acknowledges its responsibility to provide Local Area Network (LAN) infrastructure that can meet customer demands for high availability. In this regard, it advised us that it has completed a design plan scaled to support different levels of availability, including high availability, and that the infrastructure has been upgraded over the past three years to provide these service levels. Many network services are available, through the government's agreement with its third-party provider, to meet ministry business requirements.

MBS also developed and disseminated a number of IT standards, procedures, and best practices to ensure systems are designed to enable high availability. These standards were supplemented in January 2003 with a new set of IT security standards that define operational principles, requirements, and best practices for the protection of the integrity, confidentiality, and availability of the Ontario government's networks and networked computer systems.

MBS also advised us that a corporate change advisory board was established in 2003/04 to manage the approval and scheduling of changes to the I&IT infrastructure that affect more than one cluster of grouped ministries. This ensures the availability and integrity of the OPS production infrastructure. New transactional systems will be designed to promote high availability, particularly for critical transactions. A legacy renewal strategy has also been established to ensure that critical e-systems can be delivered in accordance with high-availability best practices.

The Ministry of Transportation advised us that it has completed a replacement program for obsolete and overloaded servers. The Ministry of Training, Colleges and Universities believes its risk of data loss is extremely low with its current system. A disk-protection system ensures steady, ongoing processing of information in the case of a drive failure; essential data from students is archived between the twice-daily backups to ensure data recovery in the case of a catastrophic loss of application data.

## MANAGEMENT BOARD SECRETARIAT AND MINISTRIES OF THE ENVIRONMENT, FINANCE, HEALTH AND LONG-TERM CARE, NATURAL RESOURCES, AND COMMUNITY SAFETY AND CORRECTIONAL SERVICES

# 4.06—Consulting Services

### (Follow-up to VFM Section 3.06, *2002 Annual Report*)

## BACKGROUND

Consulting services, as defined under the revised Management Board of Cabinet Procurement Directive for Consulting Services, are services provided for a fee, on the basis of a defined assignment, and relating to management consulting, information technology (IT) consulting, technical consulting, and research and development.

Over the five-year period from 1998 to 2002, there was a substantial increase in annual consulting services expenditures at Ontario ministries, from $271 million in 1998 to $662 million in 2002. Our audit of consulting services in 2002 encompassed work at the following six ministries (ministries): Management Board Secretariat (MBS), Environment, Finance, Health and Long-Term Care, Natural Resources, and Public Safety and Security (now the Ministry of Community Safety and Correctional Services). For the 2003/04 fiscal year, these ministries incurred $232 million in consulting services expenditures ($314 million in 2001/02).

In 2002 our audit concluded that, in many respects, consulting services were not acquired and managed with due regard for value for money. The following is a summary of our major concerns:

- There was a heavy dependence on the use of consultants. Hundreds of consultants were engaged at per diem rates that were on average two to three times higher than the salaries of ministry employees performing similar duties.
- The ministries often awarded short-term contracts to a consultant and then extended the term and ultimate cost of the contract with little or no change to the original deliverables.
- In the development of multi-million-dollar IT projects, the ministries often engaged consultants on a per diem basis to do the work instead of awarding the work based on an open tender. This lack of open tendering did not ensure that the most qualified consultants were acquired at the best available price and that all suppliers of consulting services were given fair access and treated in an open and transparent manner. In addition, by compensating consultants on a per diem basis and not on the basis of a fixed price and fixed deliverables, the ministries assumed the risk and

cost of consultants not delivering their work on time, even when such problems may have been caused by unsatisfactory performance and inefficiencies on the part of the consultants.

- There were significant weaknesses in controls over payments to consultants. We found many examples of payments to consultants that exceeded the ceiling price of contracts, where there was no evidence of prior approvals by the Deputy Minister or designate as required by the Directive. We also found instances where consultants' rates were permitted to increase significantly without documented rationale for these large increases.

We made a number of recommendations for improvement and received commitments from all the ministries that they would take corrective action.

## CURRENT STATUS OF RECOMMENDATIONS

According to information received from Management Board Secretariat and the ministries we audited, substantial progress has been made to put in place more stringent controls over planning for, acquiring, and managing consulting services. The Management Board of Cabinet issued new and revised directives. In addition, ministries revised their internal policies and trained staff to comply with the new requirements. The Internal Audit Division at Management Board Secretariat initiated an audit of the acquisition and management of consulting services at seven large ministries, primarily to assess the extent of compliance with the new procurement directives. The audit commenced in April 2004 and was in process at the time of our follow-up.

Since our *2002 Annual Report,* progress has been made to reduce expenditures on consulting services; total annual expenditures by all ministries combined have decreased by approximately 19%, from $662 million to $537 million. Similarly, the total for the six ministries we audited in 2002 has decreased by over 25%, from $314 million to $232 million.

The current status of action on each of our recommendations is as follows.

### *DIRECTION TO MINISTRIES*

#### Recommendation

*In order for vendor-of-record arrangements to reflect a fair, open, and competitive procurement process that will ensure that ministries receive value for money, Management Board Secretariat (MBS) should ensure that:*

- *guidelines are strengthened to clarify the process by which consultants are selected and that ministries are required to follow a formal selection process to give the qualified consultants on a vendor-of-record list equal opportunity to bid on government contracts;*
- *there is a documented rationale to support any departure from the competitive selection requirements of the Directive, authorization from Management Board of Cabinet is obtained for all departures, and the Directive is updated to reflect the requirements of vendor-of-record arrangements;*
- *its guidelines to ministries require that larger projects not be subdivided into smaller assignments to avoid competition and that ministries ensure that consultants assume responsibility for their work by requiring fixed deliverables at a firm price; and*
- *an improved process for collecting information on and monitoring ministry use of vendors of record is established.*

*In addition, MBS should, whenever possible, obtain guarantees from consultants that their per diem rates are the lowest available to their major customers. The vendor-of-record list should indicate when these guarantees have not been obtained, in which case ministries should be permitted to negotiate for better rates.*

### Current Status

On April 25, 2003, Management Board Secretariat (MBS) issued revised Management Board of Cabinet (MBC) procurement directives for the acquisition of goods and services, consulting services, and information technology (IT). Provisions in each of these directives serve to strengthen requirements for engaging consulting services.

Included in the revised directives were specific policies and processes for the establishment and use of vendors of record, including specific rules that make the vendor-of-record selection process more competitive than it previously was. The directives set out the following new requirements:

- If there is only one vendor of record for the required goods and/or services, a ministry may select that vendor without having to undertake any further selection process.
- If the total estimated value of a contract is less than $25,000, a ministry may either select one of the vendors of record or require competing vendors to submit bids or proposals for the ministry's consideration.
- If the total estimated value of a contract is between $25,000 and $249,999, a ministry must, if possible, invite at least three vendors of record to submit bids or proposals.

- If the total estimated value of a contract is between $250,000 and $749,999, a ministry must, if possible, invite at least five vendors of record to submit bids or proposals.

Ministries must use a separate open competitive process in lieu of selecting a vendor of record for contracts with estimated values of over $750,000. In addition, the former requirement that IT procurements estimated at $1 million or more receive prior MBC approval has been expanded to include all procurements of goods and services.

Ministries must generate and retain appropriate documentation on: the selection process for goods and services acquired; the criteria used to determine which vendors of record are to be invited to submit bids or proposals (where applicable); and the criteria used to determine which vendor is to be awarded a contract. In the case of consulting services, all non-competitive acquisitions valued at $25,000 or more require prior deputy head approval, while acquisitions valued at $500,000 or more require prior MBC approval.

In December 2003, MBC approved an enhanced requirement for new IT projects whereby assignments must be based on fixed prices rather than per diem rates. Ministry staff must obtain the approval of both their chief information officer and their deputy minister to exempt themselves from this requirement.

The directives also impose strict requirements that limit the ability of ministries to expand the scope of a consulting assignment and to structure or subdivide a consulting assignment to avoid competition. These include enhanced oversight and approval procedures at the senior-management level. Such requirements are intended to ensure that ministries are careful in their planning for consulting assignments and are accurate in their costing of the proposed assignments.

MBS informed us that the new vendor-of-record arrangements for various IT consulting services include a new pricing methodology. The new methodology ensures that when vendors bid to be listed as vendors of record for a service, the highest qualified-vendor price accepted will not be more than 25% higher than the average of all the bids for that particular service. This price limit was developed to encourage lower vendor bid prices and should result in greater value for money when using vendors of record. In addition, all new IT projects using vendors of record contain clauses requiring that vendors provide "most-favoured-client" rates to ministries; in addition, vendors will have the option to further discount prices when responding to requests for services from ministries. Depending on their success, these IT vendor-of-record initiatives may be extended to the vendor-of-record arrangements for other types of consulting services.

## *CONCERNS RELATING TO THE USE OF CONSULTANTS AT MINISTRIES*

### Continuous Reliance on Consultants and Assignment Definition

**Recommendation**

*To ensure that its requirements are met in the most economical manner, the ministries should comply with the requirements of the Management Board of Cabinet Directive on Consulting Services by:*

- *clearly defining proposed assignments, which involves specifying tangible deliverables, time frames for completion, and related costs, preferably with fixed ceiling prices; and*
- *avoiding continuous reliance on consultants and, when appropriate, ensuring that a transfer of knowledge occurs from the consultant to staff.*

### Justification for the Use of Consultants

**Recommendation**

*To ensure that needed services are obtained in the most economical way possible, prior to hiring consultants the ministries should conduct a proper evaluation of available resources both within the ministries and in other ministries, document the results, assess alternatives to using consultants, and, where the services of consultants are considered necessary, justify the engagement of consultants.*

### Competitive Selection of Consultants

**Recommendation**

*To ensure that consulting services are acquired at the best available price, the ministries should:*

- *follow the competitive selection requirements of the Management Board of Cabinet Directive on Consulting Services and Management Board Secretariat;*
- *on the basis of its evaluation of the experience, qualifications, and submitted bids of all the consultants capable of completing the assignment to the satisfaction of the Ministry, select the highest-ranked consultant; and*
- *adequately document the selection process and retain the documentation for use in supporting its decisions.*

## Current Status

The Management Board of Cabinet Directive on Consulting Services was revised and requirements are now set out in the Procurement Directive for Consulting Services as well as in two other procurement directives for acquiring goods and services and information technology, respectively. To address the above recommendations, new requirements were added to the procurement directives dealing with defining proposed assignments, ensuring transfer of knowledge to ministry staff where possible and appropriate, and documenting the results of evaluations of available resources. For instance, ministries are now prohibited from acquiring external consulting services when existing ministry resources are available for the assignment; if ministries determine they do need to use consulting services, they must document their prior consideration of the use of internal ministry resources. In addition, a firm agreement ceiling price that is tied to the vendor's supply and/or completion of tangible deliverables is required for all consulting service assignments.

The new procurement directives outline a mandatory process for competitively selecting consultants. Ministries may select only the highest-ranked submission that meets all mandatory requirements, must fully document the selection process, and must retain the documentation for a minimum of seven years.

The Shared Services Bureau of Management Board Secretariat (MBS) has developed a detailed checklist for engaging consulting services that is based on the new procurement directives. The checklist notes that each step in planning for a contract, procuring consulting services, managing consultants, and evaluating consultant performance should be properly documented and validated. Also, the checklist notes that ministries should create a business case to justify the hiring of consultants. The business case requires consideration of the extent to which the vendor will transfer knowledge to ministry staff, and the Ministry is expected to provide an explanation if the transfer is not to occur.

We were informed that MBS and all ministries have conducted training sessions for key staff on the policies and procedures required to be adhered to when engaging consultants. We were also informed that new materials, including the checklist, were developed to assist ministries in successfully implementing the requirements of the new procurement directives.

In December 2003, the Management Board of Cabinet approved a strategy for reducing Ontario Public Service reliance on consultants. The strategy provides a framework for ministries to review existing consultant expenditures and analyze, using a business case, how needed services should be delivered annually up to the 2005/06 fiscal year. Based on this analysis, the framework enables ministries to either convert consultant positions for ongoing work to full-time staff positions or to fully outsource the work.

In addition, MBS, as well as most of the ministries we audited in 2002, informed us that they had implemented processes for periodically sampling and assessing compliance with the requirements for consulting engagements.

## An MBS Agreement with a Consultant

### Recommendation

*In order to properly monitor project progress, control project costs, and determine the extent to which deliverables are achieved, Management Board Secretariat should enter into a new or revised contract with a consultant whenever the scope and objectives of the consultant's original contract are revised, and the new or revised contract should reflect the changes in scope and/or objectives.*

### Current Status

Under the new procurement directives, whenever changes and/or additions to the terms and conditions for any agreement increase the original contract's ceiling price, the following must be documented and receive the prior approval of the deputy minister or the deputy minister's delegate: the changes and/or additions themselves; the method used to arrive at the revised ceiling price; and the reason why the need for changes and/or additions was not foreseen prior to signing the contract.

In addition, the prior written approvals of both the deputy minister and the minister are required before executing any change to an agreement that would cause the ceiling price to reach or exceed $750,000. The prior approval of the Management Board of Cabinet is required before executing any change to an agreement that would cause the ceiling price to reach or exceed $1 million.

We were advised that during training sessions at Management Board Secretariat (MBS), managers were reminded of the need to ensure that payments are only made based on the stipulated terms of the contract and in compliance with specific requirements of applicable directives. According to MBS, the training sessions also dealt with the requirements to be followed when agreements are changed, including the approval requirements described above.

## Tax Compliance Forms

### Recommendation

*Prior to engaging the services of a consultant, the ministries should:*

- *ensure that the consultant has submitted the required tax compliance declaration to confirm that the consultant is in good standing with the provincial tax authority; and*

- *forward the tax compliance declarations to the Ministry of Finance to enable verification that every consultant who submits the tax compliance form is actually in compliance.*

### Current Status

Under the three new procurement directives, the Ministry of Finance is required to verify a consultant's tax compliance prior to the award of a contract valued at $25,000 or more. Commencing in April 2004, this verification process is to be done once a year for multi-year contracts. If a consultant's taxes are no longer in good standing, the Ministry of Finance has the option of deducting the taxes owing from the payment to be made by the contracting ministry.

We were advised that during training sessions held by ministries on the new procurement directives, managers were reminded that they need to both obtain a tax compliance declaration form from the consultant and receive a verification of the declaration from the Ministry of Finance before awarding a contract. The training also advised managers of the procedures required under the new procurement directives for filing the form with the Ministry of Finance and maintaining a copy on file for reference purposes. In addition, an MBS-developed checklist includes a reminder that each engaged consultant's tax compliance must be verified.

## Controls over Payments to Consultants

### Recommendation

*To ensure that all payments to consultants are in accordance with valid contracts and made only for work performed, the ministries should:*

- *ensure that approvals at the appropriate level are obtained for consulting service invoices submitted for payment;*
- *require that payments be made only when there is a valid contract in place; and*
- *monitor payments for adherence to the agreed-upon price in contracts and allow amounts in excess of the agreed-upon price only if those amounts are justified, formally agreed to, and accompanied by proper approval.*

### Current Status

The following new mandatory requirements have been included in the three new procurement directives. These requirements are intended to ensure the effective and responsible management of consulting-service assignments.

- All payments must be in accordance with contractual provisions and go through appropriate approvals.

- All payments for travel and general expenses must be in accordance with the Travel Management and General Expenses Directive applicable to ministry employees.
- Any overpayment for fees or expenses must be recovered by ministries.
- All required approvals must be obtained for all changes in scope and the terms and conditions of a contract.

We were informed that at all of the ministries where our *2002 Annual Report* identified significant weaknesses in financial controls over payments, the delegation of authority has been revised in order to ensure more stringent controls over payment approval. We were further informed that all ministries established a system to routinely verify that payments made are in accordance with the terms and conditions of the consulting contract.

## Managing and Controlling the Use of Consultants

### Recommendation

*To help ensure that consulting services are acquired, managed, and controlled appropriately and economically, the ministries should establish an adequate system for maintaining management information on the use of and payments to consultants by the various program areas. The information should be used for monitoring the effectiveness of the use of consultants by the ministries and for identifying areas where management practices need to be improved.*

### Current Status

According to the three new procurement directives, ministries now must provide an annual report to Management Board Secretariat (MBS) on the planning, acquisition, and management of consulting services. The annual reports are to include the following information:

- a list and description of all the ministry consulting-service agreements that were in effect at any time during the fiscal year, with details on the estimated total agreement value used to determine the required levels of approvals, original and actual costs, and acquisition procedures used, as well as confirmation of deliverables received;
- all agreements for which an increase in ceiling price occurred;
- all follow agreements not tendered; and
- all agreements with a ceiling price over $25,000 for which non-competitive acquisition procedures were used.

Ministries must also provide a review of the management practices used to comply with the principles of the new procurement directives, including a report on any problems encountered and corrective action taken to prevent a recurrence.

A consulting-services annual report template has been developed by MBS, and the first report for the 2003/04 fiscal year was due to MBS by May 31, 2004. We understand that, as of July 15, 2004, all ministries had submitted their report. We were also informed that the annual reports will be analyzed to identify if any additional action is required corporately or by ministries.

We were informed by all of the ministries we audited that they had made improvements to their financial and management systems to oversee and report on their consulting-service engagements.

In addition, the Internal Audit Division at MBS had initiated an audit of the acquisition and management of consulting services at seven large ministries, primarily to assess the extent of compliance to the new procurement directives. The audit commenced in April 2004 and was in process at the time of our follow-up.

## Post-assignment Evaluations

### Recommendation

*To better ensure that value for money is received from consultants, the ministries should ensure that all major consulting projects are formally evaluated upon completion and that the results are documented for use in determining the suitability of the consultants for future work.*

### Current Status

The three new procurement directives include mandatory requirements for managing and documenting consultant performance and also require that any performance issues be resolved. In the case of multi-year contracts, this must be done at least annually during the term of the contract.

In addition, instructions for using vendors of record continue to include a requirement that ministries complete a performance evaluation for each consulting assignment and forward the evaluation to Management Board Secretariat (MBS) to help MBS better manage the vendor-of-record arrangement.

Furthermore, a checklist for ministries to use when engaging consultants notes that ministries should conduct a formal evaluation of all consulting projects. In addition, the template to be used in preparing annual reports on consulting services includes a requirement to report on the status of the deliverables for each project.

All of the ministries we audited in 2002 informed us that systems and procedures were in place or being worked on to ensure that a formal performance evaluation was done for each consulting project.

## ONTARIO REALTY CORPORATION

### Recommendation

*The Ontario Realty Corporation (ORC) should ensure that justification for hiring communications consultants is documented. A needs analysis should include the costs and benefits of hiring the consultant and alternatives considered such as the use of ORC staff. In order to reduce costs, ORC should also attempt to lessen its dependency on communications consultants by performing as much work as possible in-house.*

*To ensure proper contract management with communications consultants, ORC should comply with the terms of the Advertising Review Board standing agreements that require that letters of agreement be entered into for each individual assignment. ORC should also ensure that, for each agreement, the project scope and deliverables are clearly defined in sufficient scope and detail to permit the effective management of the contracts and to ensure objectives have been met.*

*Invoices submitted by communications consultants should provide sufficient information to allow staff responsible for invoice approvals to determine whether the service has been rendered and that the amount invoiced is reasonable.*

### Current Status

According to the Ontario Realty Corporation, action has been taken to reduce its reliance on communications consultants, and most day-to-day communication is now being performed in-house.

We were informed that letters of agreement must now be in place for each individual assignment. We were also informed that the procurement policy has been revised to be consistent with the revised Management Board of Cabinet directives. The requirements cover planning, sourcing methods, and evaluation criteria. A standard agreement template that includes requirements for project terms, duration, and deliverables has been implemented.

In addition, a detailed description on work rendered is required for all invoices submitted by communications consultants.

## MINISTRY OF NATURAL RESOURCES

# 4.07–Ontario Parks Program

### (Follow-up to VFM Section 3.07, *2002 Annual Report*)

## BACKGROUND

The Ontario Parks Program (Program) of the Ministry of Natural Resources is responsible for managing provincial parks and protected areas in support of the Ministry's vision of sustainable development of natural resources and its mission of managing such resources for ecological sustainability. The primary objectives of the Program are to protect natural resources, provide recreational opportunities, develop tourism, and enhance appreciation of the province's natural and cultural heritage.

At the time of our follow-up there were 314 provincial parks (there were 277 provincial parks covering over 70,000 $km^2$ at the time of our 2002 audit). For the 2003/04 fiscal year, the Ministry's funding for the Program was approximately $59 million, of which $47 million was funded from the Ontario Parks Special Purpose Account. Ministry capital spending on the Ontario Parks' infrastructure totalled an additional $25 million.

Overall, we concluded in 2002 that, in many respects, the Ministry did not ensure compliance with the legislation and policies designed to ensure the sustainable use and development of park resources and that the Ministry did not have adequate procedures in place to measure and report on the effectiveness of the Program. In addition, we noted a number of instances where procedures for ensuring due regard for economy and efficiency needed to be improved. Specifically, we observed the following:

- The enforcement activity that was carried out was inadequate, in that over 70% of park superintendents who responded to our survey indicated that parks were not being effectively patrolled and that the Ministry's minimum operating standards relating to enforcement were not being met. As a result of the Ministry's not meeting its protection mandate, natural resources had been adversely affected and in some cases destroyed.
- The Ministry had management plans in place for only 117 of the 277 provincial parks. Such plans are essential if animal and plant life resources are to be managed and protected. We noted instances where inadequate planning and a lack of action resulted in uncontrolled wildlife growth and habitat destruction that threatened the sustainability of other species.
- The Ministry did not have an overall strategy in place for managing species at risk of extinction in the province, even though the *Endangered Species Act* has been in force since 1971. Of the 29 species deemed by regulation to be at risk, only five

had recovery plans in place. Three species that did not have recovery plans in place can no longer be found in Ontario.

- Customer service standards were not met for the parks' Computer Reservation and Registration Accounting System, which was operated by a private service provider. Over 65% of our sample telephone calls were not answered either because of a busy signal or because we were put on hold for 15 minutes, after which time we hung up the phone.

We made recommendations for improvements in each of these areas and received commitments from the Ministry that it would take corrective action.

# CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ministry of Natural Resources, some progress has been made on all of the recommendations we made in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

## *COMPLIANCE WITH POLICIES AND PROCEDURES*

### Managing Parks for Ecological Sustainability

**Recommendation**

*To help ensure that provincial park resources are protected and maintained at sustainable levels, the Ministry should:*

- *complete management plans for all parks and review existing plans on a more timely basis;*
- *complete and monitor the required resource inventories for all parks;*
- *develop procedures, such as the selection and monitoring of indicator species, to help evaluate and report on the sustainability of park ecosystems; and*
- *conduct a province-wide risk analysis that will result in financial and human resources being directed to the most critical areas and ensure that the related implementations are effectively monitored.*

**Current Status**

The Ministry informed us that it developed criteria to be used to prioritize projects associated with provincial park management plans. These criteria include the age of the management plan, the risk to protected-area values, commitments, integration with other plans or planning processes, and partnership support. As of May 2004, the Ministry had 127 management plans in place for the 314 provincial parks that existed at the time of our follow-up review. However, the Ministry acknowledged that an additional 90 park management plans had not been reviewed in the past 10 years.

To help monitor protected resources, the Ministry also developed a computerized system to consolidate, on a provincial basis, information—based on park management plans—for the inventory of protected resources.

Protected areas throughout Ontario are subject to a variety of internal and external stresses, including hikers and campers within protected areas, intensive agriculture or forestry on adjacent lands, and the effects of climate change across the province. To help evaluate and report on the sustainability of park ecosystems, the Ministry has identified the potential ecological stresses with respect to provincial parks. The identification of these stresses is to form the basis for the development of a risk-based strategy that directs resources to the most critical areas in provincial parks.

## Species at Risk of Extinction in Ontario

### Recommendation

*To properly manage species at risk and to help sustain and increase endangered populations, the Ministry should:*

- *develop an overall strategy to provide for the conservation, protection, restoration, and propagation of species at risk;*
- *clear up the backlog for regulating identified endangered species; and*
- *prepare and implement recovery plans to help prevent species from becoming extinct in the province.*

### Current Status

The Ministry has completed a draft Species at Risk Strategy for Ontario that sets out the principles, goals, and supporting strategies that should enable the Ministry to continue building a comprehensive Species at Risk program in co-operation with its partners. The key components of the strategy include monitoring and data management; assessing, protecting, and the recovery of species at risk; and public awareness.

With respect to the backlog for regulating identified endangered species, the Ministry informed us that this is an ongoing process, with about three species regulated each year. New species are continually added to the backlog, resulting in additional pressure on regulation efforts. Since our audit in 2002, an additional 11 species have been regulated under the *Endangered Species Act*. As of May 2004, there were 34 Ontario species (an increase of three since our audit) that have been recommended for national endangered status by the Committee on the Status of Endangered Wildlife but have yet to be regulated under the Act. The Ministry indicated that it will continue to consider all of these backlogged species for regulation under the Act. However, we were informed that some of these species receive protection under the *Fish and Wildlife Conservation Act*, the *Provincial Parks Act*, the *Crown Forest Sustainability Act*, and the

*Planning Act* (under which municipalities must protect significant portions of the habitats of endangered and threatened species when planning for development).

As of May 2004, to ensure that recovery plans for endangered and threatened species were put in place, the Ministry stated that it had established 55 recovery teams addressing 73 species, had approved seven recovery plans, and was reviewing 19 draft recovery plans.

## Enforcement Activity

### Recommendation

*To help ensure that provincial park resources are adequately protected, the Ministry should:*

- *review the level of enforcement activity in both operating and non-operating parks to determine whether there are adequate levels of funding, staff, and equipment for park superintendents and wardens to carry out their enforcement responsibilities; and*
- *develop specific guidelines outlining a risk-based enforcement strategy for non-operating parks.*

### Current Status

In 2003, the Ministry undertook a review of the adequacy of the enforcement activity in both operating and non-operating parks. As of May 2004, the Ministry was evaluating the recommendations made by the review team with regard to minimum operating standards, but no date had been established for implementing the recommendations from the review.

The Ministry informed us that it had developed a risk-based assessment strategy for non-operating parks to assist staff with the risk management process. The tool should help park superintendents and wardens identify and assess risks at their parks, assign priorities, determine the appropriate action required for protection, and determine the level of resources required. The Ministry was also considering the development of minimum custodial management standards for non-operating parks.

## *MEASURING AND REPORTING ON PROGRAM EFFECTIVENESS*

### Recommendation

*The Ministry should develop performance measures for use in assessments that help to ensure the ecological sustainability of provincial park resources.*

### Current Status

The Ministry has completed a framework that focuses on an ecosystem-based approach to monitoring and supporting planning and management of protected areas across

Ontario. Under this framework, the Ministry developed nine outcomes to measure performance against the goal of ecological sustainability. These outcomes are to measure the three main principles of ecological integrity, social well-being, and economic health. For each outcome, a number of indicators have been developed to measure performance. The Ministry indicated that the performance measures will be in place by March 2005. The Ministry also indicated that, when the performance measures are in place, it will produce a report on the state of the protected areas to determine if its practices ensure the ecological sustainability of provincial park resources.

## *DUE REGARD FOR ECONOMY AND EFFICIENCY*

## Park Reservation and Accounting System

### Recommendation

*The Ministry should more closely monitor its service provider to ensure that customer service requirements are being met and ensure that future contracts with service providers include a provision for periodic independent security reviews.*

### Current Status

The Ministry advised us that it continues to monitor the performance of the service provider for the reservation call centre through the daily and weekly reports. In May 2004, the Ministry was in the process of creating a staff position that will be dedicated to monitoring and conducting random testing of the Internet-based reservation service and reviewing response times at the call centre. This position is anticipated to be in place during the summer of 2004. The Ministry determined that, since March 2003, the performance of the service provider has improved, with an average wait time for the reservation call centre to answer telephone calls being less than 10 seconds.

The Ministry also implemented semi-annual independent security reviews of the service contract for the Internet-based reservation service. According to the Ministry, the reviews have demonstrated that the Internet reservation service is secure.

## Capital Infrastructure Maintenance

### Recommendation

*To ensure that provincial parks are maintained for the benefit of future generations and to correct infrastructure deficiencies that may pose a threat to health and safety, the Ministry should take action to bring the parks' infrastructure to a satisfactory state.*

### Current Status

The Ministry informed us that any known infrastructure deficiencies that may pose a threat to the health and safety of staff and visitors have been corrected through improvements or replacement of the facilities. The Ministry advised us that it will continue its ongoing efforts to maintain the parks' infrastructure and restore it to a satisfactory state, which it still estimates will cost approximately $420 million. The Ministry indicated that, with current funding levels, it could take 30 years to bring the parks' infrastructure to an acceptable state.

With respect to the water treatment and distribution systems in provincial parks, the Ministry is continuing to work towards meeting the drinking-water standards established by the Ministry of the Environment. Since our audit in 2002, the Ministry has incurred capital expenditures of $35.4 million to upgrade drinking-water systems in its provincial parks.

## Provincial Park Movable Assets

### Recommendation

*To properly control and safeguard provincial park movable assets, the Ministry should develop and implement a new asset management system to permit the effective implementation of the new movable asset management policy and guideline.*

### Current Status

The Ministry has implemented a movable asset management system that records park inventories. All information from the old asset management system, which was discontinued in 1998, as well as all assets purchased since that time, have been incorporated into the new system. To ensure that the system contains a full accounting of all movable assets and to control and safeguard these assets, park superintendents are required to carry out periodic asset verification.

## Ontario Parks Special Purpose Account

### Recommendation

*To ensure that all public money is properly accounted for and the Ontario Parks Special Purpose Account earns all the interest it is entitled to, the Ministry should:*

- *require that contractors deposit all provincial park revenue into the Consolidated Revenue Fund as stipulated by the* Provincial Parks Act *and the* Financial Administration Act*; and*
- *perform the necessary reconciliations on a timely basis.*

### Current Status

According to the Ministry, all new contracts with third-party contractors that operate large parks for the Ministry will require that all revenue collected be deposited to the Consolidated Revenue Fund. These contractors will now invoice the Ministry for the services rendered. As of May 2004, the Ministry was still reviewing the arrangements with contractors that operate access points into the parks and with contractors that operate partnership parks to assess the impact of the new requirements in terms of cost and administration for both the Ministry and the contractors.

The Ministry informed us that it now hires additional staff during the busy summer months to ensure that reconciliations of park revenue with deposits are performed on a timely basis. This has allowed for the timely transfer of funds from the Consolidated Revenue Fund to the Ontario Parks Special Purpose Account to maximize the interest earned by the account.

## MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

# 4.08–Community Services Program

### (Follow-up to VFM Section 3.08, *2002 Annual Report*)

## BACKGROUND

The Ministry's Community Services Program (Program) is responsible for supervising adult offenders (18 years of age and older), and, until March 31, 2004, it was responsible for young offenders (16 to 17 years of age) who were under some form of conditional release—that is, who were on probation, serving a conditional sentence, or on parole (responsibility for young offender services was transferred to the new Ministry of Children and Youth Services on April 1, 2004). The objectives of the Program are to protect the public by monitoring offenders in the community and to rehabilitate offenders through training, treatment, and services that afford them opportunities for successful personal and social adjustment in the community.

At the time of our 2002 audit, on any given day, there were an average of 65,000 offenders (adult and young offenders combined) being supervised by the Ministry in the community. Of these offenders, 95% were on probation, 4% were serving conditional sentences, and the remaining were on provincial parole.

At March 31, 2002, the Ministry employed approximately 770 probation and parole officers throughout the province. In addition, as part of the Program, the Ministry contracts with selected community agencies to provide a variety of counselling and treatment programs. As of April 1, 2004, there were about 1,100 probation and parole staff working throughout the province, of which about 700 were employed by the Ministry. The balance of about 400 staff was transferred to the new Ministry of Children and Youth Services. In 2003/04, total program expenditures amounted to approximately $95 million (approximately $82 million in 2001/02).

In 1999, the Ministry initiated a new offender management model, which highlights offenders' correctional needs that should be addressed to effectively reduce the risk of offenders reoffending. In 2002, while we acknowledged that the Ministry was in the process of implementing this new model, we concluded that there were a number of deficiencies in its procedures that hindered the effective supervision of offenders in the community. For instance:

- At the offices we visited, over 40% of offenders who had committed additional "level I" offences while under ministry supervision lacked the required risk and needs assessment and an individualized management plan to identify their risk of reoffending and to recommend supervision. (Level I offences include sexual assault, assault causing bodily harm, uttering death threats, and other violent crimes.)

- At the five offices we visited, of the cases involving level I offenders who later committed additional offences while under supervision, we noted that over 30% had not been followed up on a timely basis after the offender failed to comply with the conditions of their supervision.
- We estimated there were approximately 10,000 arrest warrants outstanding for offenders in the community who had failed to report to their probation and parole officers. Some of the warrants had been issued as far back as 10 years. Many of these offenders were assessed as high risk and had committed serious offences, such as sexual assault and assault causing bodily harm. The Ministry did not know how many of the offenders against whom there were arrest warrants outstanding were still at large.

  While we recognized that once a warrant is issued, the police—not correctional staff—are responsible for apprehending the offenders, the Ministry and the police needed to work more closely together so as not to expose the community to significant risk.
- According to a ministry report, correctional programs for offenders were often not available in their local community. For example, of the over 3,000 sex offenders being supervised by the Ministry, fewer than 600 received appropriate rehabilitation programs.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take corrective action.

## CURRENT STATUS OF RECOMMENDATIONS

The Ministry's Internal Audit Services reviewed the status of action taken to date on our 2002 recommendations. We, in turn, reviewed Internal Audit Services' work and determined that we could rely on it. Based on this review and on other information we received from the Ministry, we found that limited progress has been made on the recommendations from our *2002 Annual Report*. The current status of ministry action on each of our recommendations is as follows.

### *NEW OFFENDER MANAGEMENT MODEL*

In 2002 we stated that we would follow up in two years on the progress of the implementation of a new offender management model known as the Probation and Parole Service Delivery Model (PPSDM).

### Current Status

The Ministry had implemented the PPSDM in all of its probation and parole offices (at the time of our 2002 audit, the PPSDM was in place in 35% of the probation and parole offices). Evaluations done by the Ministry indicated that the assessment component (assessing risk and needs) and the stream placement component (placing offenders in one of four intervention service streams to meet their correctional needs) were being complied with at the probation and parole offices. However, the Ministry was still working on expanding the availability of the core rehabilitation program component (see also the Rehabilitation Programs section of this follow-up.)

## *SUPERVISING OFFENDERS IN THE COMMUNITY*

## Risk and Needs Assessments and Management Plans

### Recommendation

To reduce the risk that offenders under ministry supervision will reoffend and to enhance the rehabilitation of these offenders, the Ministry should complete the required risk and needs assessments and management plans for these offenders on a timely basis.

### Current Status

According to the Ministry, risk assessments were done in about 95% of cases, and management plans were completed for about 67% of cases. The Ministry stated that since 2000, it had hired an additional 165 probation and parole officers. However, it needed more supervisory staff to oversee the work of its probation staff. As part of the government's results-based planning process, the Ministry was planning to request approval for additional supervisory staff by fall 2004.

## Monitoring and Enforcing Compliance with Conditions of Supervision

### Recommendation

*To better ensure public safety, the Ministry should:*

- *take timely and appropriate corrective action when offenders under ministry supervision fail to meet the conditions of their supervision, especially in cases of high-risk offenders; and*
- *ensure probation and parole officers properly document their decisions, including the rationale for not taking enforcement action in cases of non-compliance.*

### Current Status

According to the Ministry, there were still problems with ensuring timely and appropriate corrective action when offenders fail to meet the conditions of their supervision. These problems included failure to document reasons for not taking enforcement action when offenders were not complying with supervision orders. The Ministry indicated that, in more than half of the cases it reviewed, documentation was lacking when offenders did not comply with treatment, counselling, and restitution orders. The Ministry stated that it needed more supervisory staff to oversee the work of its probation staff and that it would be requesting approval for additional supervisory staff by fall 2004.

## Outstanding Arrest Warrants

### Recommendation

*To better protect the safety of the community and enhance the credibility of the justice system, the Ministry should work more closely with the police to ensure that high-risk offenders against whom there are arrest warrants outstanding are apprehended in a timely manner.*

### Current Status

The Ministry had made some progress in co-ordinating its efforts with those of the police to help ensure that high-risk offenders are apprehended in a timely manner.

As of June 2004, half of the Ministry's area offices had established written protocols with local police regarding the sharing of offender information. However, there was no plan for the sharing of warrants information between the Ministry's Offender Tracking Information System and the Canadian Police Information Centre. The Ministry acknowledged that better sharing of such information is needed for the timely apprehension of high-risk offenders with outstanding warrants.

According to the Ministry, after our 2002 audit, subsequent counts indicated there were about 9,600 warrant files located at the various probation and parole offices across the province. Further review and assessment by the Ministry, in conjunction with efforts by courts and police services, showed that 4,700 of the warrant files were outdated and had since been resolved. The Ministry indicated that it is in the process of dealing with the remaining 4,900 outstanding warrants.

## *REHABILITATION PROGRAMS*

### Recommendation

*To provide offenders under the Ministry's supervision with better opportunities for successful personal and social adjustment in the community, the Ministry should ensure the availability of rehabilitation programs that offenders need.*

### Current Status

The Ministry informed us that it had increased its core rehabilitation programs from three to five. At least one of these core programs was available at 45 of the Ministry's 105 probation and parole offices across the province (programs were available at only 39 offices during our audit in 2002). The Ministry indicated that it was planning to expand the availability of its five core programs to more offices. According to the Ministry, in remote or in some smaller satellite offices offender needs are addressed on an individual basis.

## PROBATION AND PAROLE OFFICERS

## Caseloads and Workloads

### Recommendation

*The Ministry should develop workload standards and use them to analyze staffing requirements so that staff can be deployed in a more efficient and effective manner.*

### Current Status

The Ministry issued a report on how to implement workload measurement for probation and parole staff in February 2004. The Ministry indicated that workload standards would be implemented after the proposed standards have been tested and an information system to import data on workloads has been introduced.

## OFFENDER TRACKING AND INFORMATION SYSTEM

In our 2002 report, we noted that the Ministry had implemented a new Internet-based Offender Tracking and Information System (OTIS) to replace the former Offender Management System. Our review and discussion with ministry staff at the time indicated that, while OTIS supported the sharing of information with other partners, it did not facilitate case management by probation and parole officers. We also noted that there were inadequate controls to prevent unauthorized access to offender records. We stated that we would follow up in two years on the Ministry's progress towards correcting the problems with OTIS.

### Current Status

According to the Ministry, OTIS reliability has been improved in that the number of crashes and screen freezes have been reduced. A ministry survey done in late 2003 indicated that the majority of probation and parole officers found OTIS to be helpful in their case management of offenders. Also, more rigorous password controls have been put into place.

## FUNDING AND MONITORING COMMUNITY SERVICE AGENCIES

### Recommendation

*To ensure both due regard for economy and efficiency and accountability for service performance, the Ministry should ensure that:*

- *funding to community service agencies that provide programs to offenders is based on a proper assessment of service-level requirements;*
- *payments made to these community service agencies are properly supported by signed contracts; and*
- *services provided by such agencies are monitored to confirm that they adhere to ministry standards and meet the needs of offenders and that funds are used prudently.*

### Current Status

The Ministry still did not provide funding to community service agencies based on a proper assessment of the service levels required. The Ministry acknowledged that, as of December 2003 only half of the 176 ministry contracts for adult community services had been signed; however, by March 31, 2004, only seven remained unsigned. The Ministry also acknowledged that due to staffing, there is a continuing lack of quality assurance processes in place to verify that services are provided appropriately. The Ministry stated that it was considering changing its staffing structure and bringing in a competitive selection process for agencies before 2005.

## MEASURING AND REPORTING ON PROGRAM EFFECTIVENESS

### Recommendation

*The Ministry should implement performance measures to assess the effectiveness of the Community Services Program in contributing to public safety and the rehabilitation of offenders.*

### Current Status

The Ministry indicated that it was developing a new Performance Outcome System for community service offenders. According to the Ministry, the performance measures will be developed for implementation later in 2004.

## MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES

# 4.09–The Ontario Parole and Earned Release Board

### (Follow-up to VFM Section 3.09, *2002 Annual Report*)

## BACKGROUND

The Ontario Parole and Earned Release Board (Board) makes decisions about parole for offenders sentenced to less than two years of imprisonment. Offenders are eligible for parole upon serving one-third of their sentences. Offenders that are granted parole serve the full length of their sentences (one-third in an institution followed by two-thirds in the community under supervision and conditions set by the Board); offenders that are not granted parole are normally released from an institution after serving two-thirds of their sentences. Effectiveness in contributing to the safety of society requires the Board to help more low-risk offenders successfully reintegrate into the community by controlling the timing and conditions of their release.

For the 2001/02 fiscal year, the Board had four full-time and over 40 part-time members. Total expenditures for the 2003/04 fiscal year were approximately $3 million (also approximately $3 million in 2001/02).

In 2002, we concluded that the Board's mandate to protect society by effectively reintegrating offenders into the community was hindered by a dramatic reduction in the number of eligible inmates being considered for parole. The decline in the number of hearings from 6,600 to 2,100, combined with a steady drop in parole grant rates from 59% to 28%, has resulted in fewer than 600 inmates being granted parole in 2000/01, as compared to 3,800 in 1993/94.

According to board studies, factors contributing to this decline included inmates not receiving the required parole information and inmates waiving parole hearings because they felt there was little chance of getting a fair and unbiased hearing. As well, significant numbers of offenders were denied the opportunity to have their cases heard as a result of widely differing practices among different regions. For instance, in one of the four regions, we found that it was a matter of practice to deny any applications for a parole hearing from inmates serving 122 days or less, thus depriving a significant number of offenders of the opportunity to have their cases heard. This is particularly significant in that 85% of Ontario's inmates generally serve sentences of less than six months and on average are sentenced to only about 70 days.

In addition, we found that although Ontario's parole grant rates had significantly declined since 1993/94, its rates of parolees reoffending during parole have been generally higher since that same time. We also noted that:

- The Board often did not obtain all relevant information before rendering parole decisions, nor did it record the rationale for its decisions to not impose special conditions that were recommended by parole officers or police.
- The Board set performance goals for 2001/02 that were below those already achieved; thus, its goals do not serve to encourage an improvement in board performance.
- Ontario had no formal selection process to assess the abilities, skills, commitment, and suitability of potential board members, nor did the Board have the opportunity to provide input on the initial screening of potential candidates.

We made a number of recommendations for improvement and received commitments from the Board that it would take corrective action.

## CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ontario Parole and Earned Release Board, limited progress has been made on the recommendations we made in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

### *NUMBER OF PAROLE HEARINGS*

#### Recommendation

*To more effectively control the timing and conditions of release of inmates, the Board should:*

- *work with the Ministry to ensure that correctional institutions provide inmates with proper information about parole; and*
- *review regional practices to ensure that consistent and equitable access is provided to offenders applying for parole hearings.*

#### Current Status

The Board indicated that a recent survey done by the Ministry on how information about parole was being given out showed that the process did not appear to be working well in some institutions. According to the Board, the advice being given to inmates concerning parole differs widely from one institution to another. The Board was working with the Ministry to establish a monitoring process to ensure inmates are provided with proper information on a timely basis.

With respect to the Board's regional practices, the Board indicated that it has issued new province-wide policies to all its members to ensure that inmates are provided with consistent and equitable access to services. According to the Board, adherence to such policies is monitored under the Board's quality assurance and performance review process.

## PAROLE DECISIONS AND THEIR IMPACT ON REOFFENDING

### Recommendation

*To better protect society through the appropriate release of inmates under parole supervision and conditions, the Board should conduct a systemic review of board decision-making to determine why parole grant rates have significantly decreased since 1993/94 and why, since that same time, there has been a general increase in rates of reoffending during parole and take corrective action where appropriate.*

### Current Status

The Board indicated that it had not conducted an in-depth study of board decision-making and its relationship to grant/deny rates due to resource constraints.

The Board informed us that it has kept its grant rates at or near 30% since 1998/99; this rate is largely due to the fact that offenders appearing before the Board in this period have had higher risk factors, including lengthy criminal records. The Board reported that, despite the higher risk factors being presented by offenders, reoffending rates have remained consistent at about 3.6% over the last three years.

## PERFORMANCE MEASURES

### Recommendation

*To improve performance for reducing reoffending rates of parolees and thereby enhance public safety, the Board should set performance targets based on its own best results as well as those from other jurisdictions.*

### Current Status

After studying other jurisdictions in Canada, the Board concluded that there was no useful comparable performance measure that could be used to improve Ontario's parole performance measures.

The Board had not established performance targets based on its own best results. It indicated that setting of performance targets would form part of the government's results-based planning process beginning this fall.

## PAROLE DECISION-MAKING

### Obtaining Relevant Information

#### Recommendation

*To provide a better basis for granting parole, the Board should receive and consider all information necessary to support its parole decisions, including the stated reasons and recommendations of the sentencing judge and offenders' travel plans in all cases involving higher-risk offenders.*

#### Current Status

The Board indicated that it was still attempting to establish a protocol for getting judges' reasons for sentencing and their recommendations. The Board informed us that quality assurance reviews of members' decisions had been systematically performed and had included checking that board members had obtained and considered key required information such as inmates' post-release travel plans to support their parole decisions.

### Setting Parole Conditions

#### Recommendation

*To help ensure public safety, the Board should appropriately support its decisions not to impose special parole conditions that had been recommended by police or parole officers.*

#### Current Status

According to the Board, effective in 2003 members are required to consider and document recommendations made by police, parole officers, and other professionals. In cases where the Board does not intend to apply such recommendations, a rationale for the decision is required to be documented.

## QUALITY ASSURANCE AND PERFORMANCE REVIEW

#### Recommendation

*To improve the quality of its members' decision-making and overall board performance, the Board should systematically monitor the parole decision-making process and take corrective action, including the provision of additional training, where necessary.*

#### Current Status

Statistics on quality assurance reviews provided by the Board showed that such reviews are now being done quarterly in all regions across the province. The Board advised us that feedback and training for members and staff is being provided on the basis of review results.

## SELECTION AND APPOINTMENT OF BOARD MEMBERS

### Recommendation

*To ensure that the most suitable candidates are selected and appointed as board members, the Board should work with the Public Appointments Secretariat of Management Board Secretariat to establish a more formal process for assessing the abilities, skills, commitments, and suitability of applicants for board membership.*

### Current Status

The Board informed us that in the 2002/2003 fiscal year, it had—in consultation with the Public Appointments Secretariat and the Ministry—established a recruitment process for the selection of board members. Selection criteria addressing areas such as applicants' education, experience, knowledge, abilities, skills, and personal suitability were established and an interview process was formalized. Interviews are now conducted with a three-member panel composed of the Chair of the Board, a representative from the Minister's Office, and a representative from the Ministry.

## MINISTRY OF TOURISM AND RECREATION

# 4.10–Tourism Program

### (Follow-up to VFM Section 3.10, *2002 Annual Report*)

## BACKGROUND

In 2002, the Ministry of Tourism and Recreation estimated that the tourism industry employed approximately 500,000 people and generated $21.8 billion for the Ontario economy. The Ministry's Tourism Program (Program) is responsible for developing and promoting tourism in Ontario. The role of the Ontario Tourism Marketing Partnership Corporation (Corporation), a ministry agency, is to market Ontario as a tourist destination. For the 2003/04 fiscal year, tourism operating expenditures totalled $145 million ($83 million in 2001/02), of which $102 million ($52 million in 2001/02) was spent by the Corporation.

In our 2002 audit, we noted that the Program had experienced numerous shifts in focus and organizational structure—as evidenced by its five different mission statements—as the responsibility for the Program had changed ministries six times. Another major change was the recent creation of the Corporation, which was delegated the responsibility for tourism marketing and advertising. In addition, at least 11 provincial ministries have a tourism objective as part of their mandates. Given the significance of tourism to the Ontario economy, we concluded that the Ministry needed to take a more proactive leadership role in developing and implementing a long-term tourism strategy to help co-ordinate the many activities of public- and private-sector organizations that contribute to the promotion of tourism in Ontario. We also found that the Ministry and the Corporation did not have adequate procedures in place to ensure that several aspects of the Program were delivered with due regard for economy and efficiency. Specifically, we noted the following:

- There was no process in place to collect information on the tourism-related activities undertaken by other ministries or on the financial support provided by other ministries to the tourism industry. As a result, there was a risk of overlap and duplication of tourism-related programs and services.
- Tourism publications were not sufficiently comprehensive and were not published on a timely basis. For example, the Corporation's main tourism guide lists only 1,400 of an estimated 8,000 tourism facilities, and the 2001/02 winter events guide was not published until December 2001 and contained listings for events that had already taken place.
- The promotion of accommodation rating systems in Ontario had not been adequately co-ordinated between the ministries and the private sector. As a result,

Ontario is one of only a few leading tourist destinations that does not have province-wide quality standards.

- In many instances, the acquisition of management consulting services was not justified by a business case, nor were related contracts signed on a timely basis. Moreover, several contracts were awarded directly to the vendor without competition, and other projects were split into separate contracts, thus allowing the Ministry to avoid open competition requirements.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take corrective action.

# CURRENT STATUS OF RECOMMENDATIONS

According to information received from the Ministry of Tourism and Recreation and the Ontario Tourism Marketing Partnership Corporation, considerable progress has been made on most of the recommendations we made in our *2002 Annual Report*. The current status of action on each of our recommendations is as follows.

## *STRATEGIC PLANNING AND REPORTING*

### Ministry Vision and Strategic Planning

#### Recommendation

*To help strengthen accountability and provide clear direction to fulfill its vision, the Ministry should develop a strategic plan for the Tourism Program that has measurable short- and long-term objectives and an action plan with a defined accountability framework.*

#### Current Status

In the spring of 2004, the Ministry released its Ontario Tourism Strategy, which had defined goals and a framework for action. According to the Ministry, the Strategy, which was developed in consultation with industry stakeholders, is a long-term plan for the sustainability and growth of the tourism industry. The plan established a lead role for the Ministry in co-ordinating the efforts of the Ontario government across all ministries. At the time of our follow-up, the Ministry was developing a detailed implementation plan including roles and responsibilities and priorities and timelines. The plan was scheduled for completion by the fall of 2004.

## Procedures to Measure and Report on Program Effectiveness

### Recommendation

*To provide better accountability to the public and the Legislature for their use of public funds and to encourage a results-based operational focus:*

- *the Ministry should develop performance measures over which it has a reasonable degree of influence, report on the actual achievement of these measures, and provide explanations for any significant deviation from the expected outcomes; and*
- *the Ontario Tourism Marketing Partnership Corporation should develop standards for its performance measures and prepare the required annual reports for submission to the Legislature.*

### Current Status

The Ministry informed us that it had developed additional performance measures that are more directly influenced by ministry activities. Examples include increases in the number of visits to Ontario resulting from the Corporation's marketing efforts and attendance at ministry tourism agencies and attractions. The Ministry now publicly reports on these measures annually and was developing yet more measures at the time of our follow-up.

The Corporation informed us that it was implementing a program to track the performance of its marketing programs, and additional performance measures were under development for activities such as tourism marketing and travel information services. All measures were expected to be developed by fall 2004. In addition, the Corporation's annual reports for the 2000/01, 2001/02, and 2002/03 fiscal years were tabled in the Legislature in the spring of 2004.

## Co-ordination of Tourism Initiatives

### Recommendation

*To help ensure that provincial funding in support of Ontario's tourism industry is used in an efficient and effective manner, the Ministry should:*

- *minimize the risk of overlap and duplication between its programs and services and those of other ministries and agencies;*
- *develop a process to collect financial information on the support provided to the tourism industry by other ministries; and*
- *develop a strategy to assist in the co-ordination of all government activities that promote tourism in the province.*

### Current Status

We were informed that, in recognition of the importance of minimizing the risk of overlap and duplication between its programs and those of other ministries, a key focus of the Ontario Tourism Strategy is to develop an "all-of-government" approach to tourism that will guide all provincial activities related to tourism. The Ministry informed us that, as part of this strategy, an Assistant Deputy Ministers' Committee had been established to co-ordinate activities among those ministries most affected by the tourism strategy. Meetings are held on an ongoing basis.

The Ministry also implemented an ongoing process to collect information, including financial information, on the tourism-related policies, programs, and services developed by other ministries, and regular meetings of deputy ministers are now held to develop a collaborative approach to tourism-related initiatives.

## Legislative Review and Tourism Licensing

### Recommendation

*To clarify the Tourism Program's responsibilities and ensure compliance with relevant legislation, the Ministry should:*

- *consider reviewing all other tourism legislation during its current review of the* Tourism Act*; and*
- *follow up on establishments that have not renewed their licence and review procedures to ensure that tourist establishments comply with the legislation currently in place.*

### Current Status

In June 2004, the Ministry completed its review of the *Tourism Act*. However, the Ministry did not review all other tourism legislation during that review. The Ministry informed us that, notwithstanding the importance that the Ontario Tourism Strategy places on co-ordinating all government activities supporting the tourism sector, reviewing all legislation affecting tourism was presently not cost effective. The Ministry indicated that, instead, it would propose an agenda for policy reform that may include reviewing legislation affecting the tourism industry.

As part of its review of the *Tourism Act*, the Ministry reviewed the issue of requiring that operators using Crown land and resources be licensed and comply with the Act. The licensing process was reviewed and several options for the future were being considered. In the meantime, operators are still required to obtain a licence to access Crown lands and resources. In addition, the Ministry informed us that a licensing manual was completed in the fall of 2003 to assist ministry field staff in performing their functions relating to licensing and ensuring compliance with the Act (including following up on establishments that have not renewed their licence).

# *TOURISM PROMOTION*

## Marketing Plans

### Recommendation

*To maximize the impact of its marketing process for attracting visitors to Ontario, the Ontario Tourism Marketing Partnership Corporation should:*

- *require the selection of potential markets be supported by documented analysis; and*
- *review the applicability to Ontario of marketing analysis research used in other jurisdictions.*

### Current Status

The Ministry informed us that the Ontario Tourism Marketing Partnership Corporation's 2003/04 marketing strategy included a review of the best practices in other jurisdictions. It had also received, reviewed, and analyzed marketing research and budget information from other provinces and U.S. states near the border. The results of this documented analysis were used in the development of the Corporation's 2004/05 marketing plan.

## Advertising Program

### Recommendation

*To help ensure the economic, efficient, and effective delivery of its advertising campaigns, the Ontario Tourism Marketing Partnership Corporation should:*

- *conduct or arrange for the auditing of the billings of the advertising agencies it contracts with to ensure that planned advertisements have been placed and agency billings are accurate; and*
- *complete, as required, the annual performance reviews of the advertising agencies.*

### Current Status

The Ministry informed us that the Ontario Tourism Marketing Partnership Corporation had met with the Advertising Review Board, had established a process for the periodic audit of advertising agency billings, and had developed a training program for Corporation staff. The Ministry indicated that the first audit of an advertising agency's billings was completed in February 2004. We were also informed that future audits are to be conducted on a quarterly basis and that staff training is ongoing.

In the fall of 2003, the Corporation completed the first performance reviews of its advertising agencies. The review process is ongoing and is to be extended to other advertising agencies in the 2004/05 fiscal year.

## Consumer Publications

### Recommendation

*To help ensure that its tourism publications are produced and distributed in an economical and effective manner and that they effectively meet the needs of tourists, the Ontario Tourism Marketing Partnership Corporation should:*

- *review the completeness of the tourism information contained in its publications, and release publications on a more timely basis;*
- *assess the potential for obtaining advertising revenue for its French-language publications; and*
- *review its distribution and inventory policies.*

### Current Status

The Ministry informed us that the Ontario Tourism Marketing Partnership Corporation had undertaken a comprehensive review of its consumer publications, which included reviewing all aspects of our recommendation. The Corporation developed a publications strategy to incorporate the results of the review. The strategy was presented to stakeholder groups at 18 forums across Ontario in the summer of 2003 and was formally approved by the Corporation's Board of Directors in September 2003. Implementation of the strategy was scheduled to begin in the fall of 2004. The Ministry informed us that, in the interim, to ensure timely release to the public, the Corporation was now using a process for all publications whereby the deadline for each step before publication is scheduled by working backwards from the publication date.

Based on the above review, the Ministry undertook to include advertising in French-language publications to obtain revenue. For example, the French-language 2004 summer publication *Venez Chez Nous* contained seven pages of advertising, resulting in increased revenues.

According to the Ministry, the Corporation developed and implemented inventory and distribution policies to ensure the efficient distribution of all publications.

## Festival and Event Grants

### Recommendation

*To ensure that the financial assistance provided to festivals and events through its two grant programs achieves the overall objective of encouraging and increasing tourism in the province, the Ontario Tourism Marketing Partnership Corporation should:*

- *develop a formal, province-wide strategy for providing financial support to eligible festival and event operators;*

- *more effectively monitor grant approvals to help achieve the goal of developing off-season events;*
- *develop procedures to periodically verify the sponsorship commitments that are generated through festival and event organizers; and*
- *ensure that grant recipients submit the required post-project reports and review all reports received to assess the success of the grant programs.*

## Current Status

The Ministry commissioned a study in 2002 that identified festivals and events as key players in reflecting community culture, history, and traditions, thereby drawing national and international visitors and generating economic benefits. We were advised by the Ministry that it was working with Festivals and Events Ontario to develop a province-wide quality standards program and classification system. At the time of our follow-up, fieldwork was nearing completion, and a report with recommendations was expected to be available in the fall of 2004.

With regard to providing financial support, the Ontario Tourism Marketing Partnership Corporation has developed and implemented funding criteria for large events and festivals in Ontario as part of its Tourism Event Marketing Program.

Corporation staff were working with regional office staff and local organizations to increase festival and event operators' awareness of the Tourism Event Marketing Program, especially for off-season events. As well, the Corporation indicated that it had committed to ensure that at least 30% of funded events would be held in the off-season. In 2003/04, the Corporation reported that 48% of all funded events were held in the off-season.

The Ministry's Internal Audit Services worked with the Corporation to develop and implement procedures to periodically verify sponsorship revenues. The Corporation indicated that it had completed two sponsorship audits in 2003/04 and was looking at expanding the number of audits in the future.

The Corporation advised us that it now requires post-project reports from event organizers and stated that future funding is now contingent on receiving such reports. A formal evaluation framework has been developed to evaluate sponsorships, and a mechanism has been developed to track the impact of event funding.

## TOURISM OPERATIONS AND SERVICES

### Travel Information Centres

#### Recommendation

*To help assess whether provincial travel information centres are effective in meeting their objectives, the Ministry should develop procedures to periodically evaluate whether the centres continue to encourage visitors to stay longer, return more often, and spend more money in Ontario.*

#### Current Status

The Ministry informed us that in 2003 a customer survey was undertaken at all 18 Ontario travel information centres to measure visitor satisfaction and the ability of the centres to influence travel decisions and to identify ways to improve service. The report on survey results was completed in February 2004 and is to be used to improve the effectiveness of the centres.

The Ministry indicated that it had developed a policy with standards and guidelines for operating and promoting regional travel information centres across Ontario. The policy includes standards for signage on provincial highways and a model for quality service in the delivery of travel information in partnership with municipal and private-sector groups. The Ministry anticipated that the new policy would be implemented in fall 2004. In addition, a strategic plan to guide the future development of travel information services in the province is scheduled for development in the 2004/05 fiscal year.

### Maintenance of Agency and Attraction Assets

#### Recommendation

*To ensure that its tourism agencies' and attractions' assets are adequately maintained for the benefit of future generations and provide a safe environment for staff and visitors, the Ministry should:*

- *conduct a formal assessment of the value and condition of all of its assets, especially those of a historic or heritage nature; and*
- *develop a long-term capital maintenance plan to identify the funding needed to rehabilitate the capital infrastructure and preserve assets.*

#### Current Status

The Ministry informed us that it prepared a long-term (10-year) capital maintenance plan that included obtaining funding to conduct a formal assessment of the value and condition of its assets. The plan, along with a four-year interim infrastructure strategy, was submitted for approval. The Ministry indicated that, although the strategy was not approved in its entirety, the Ministry is to receive $10 million in capital funding for specific repair and maintenance projects in 2004/05. Furthermore, although funding was not received to conduct a formal assessment of the value and condition of its assets, the Ministry indicated that it will continue to prioritize health and safety needs among capital projects.

## Service Standards and Accommodation Rating Systems

### Recommendation

*To help encourage and promote improvements in the standards of accommodations, facilities, and services offered to travellers in Ontario, the Ministry should:*

- *review accommodation rating systems in other provinces and those supported by other Ontario ministries;*
- *take a lead role in encouraging and promoting the development of province-wide rating systems in Ontario; and*
- *integrate any resulting rating systems into its information network.*

### Current Status

The Ministry informed us that, in 2003, it reviewed accommodation rating systems and found that they were not very useful because the ratings were voluntary and very few of the total establishments were rated.

In developing the Ontario Tourism Strategy, the Ministry confirmed the need for consistent quality standards and the development of province-wide rating systems in Ontario. The Strategy, released in June 2004, is based on a "visitor-first" philosophy and places priority on the development of an accommodations ratings system as a means to assist visitors in making informed decisions and a means to encourage and promote improvements in the standards of accommodations. The Ministry will be seeking input from the roofed accommodation sector on the development of a ratings system through a series of discussions with stakeholders.

## Consumer Comments and Complaints

### Recommendation

*To help assess the quality of service and consumer satisfaction with Ontario's tourism experiences, the Ministry should:*

- *reassess the need for the current restrictions on responding to concerns and complaints from the public; and*
- *establish standard guidelines for recording, consolidating, evaluating, and taking action on public comments and complaints.*

### Current Status

The Ministry informed us that it had developed data collection standards for a new complaints management system and that the system has been fully implemented. We were advised that the new system captures all available public comments and complaints from 2003 originating from the Ontario Tourism Marketing Partnership Corporation, travel information centres, ministry correspondence, and public enquiries. According to the Ministry, staff have been trained to use the database and are responding to concerns and complaints from the public. Reports on the public's comments and complaints from 2003 were produced and analysis of complaints was completed in March 2004. The Ministry indicated that this process is being used to assess consumer satisfaction and make improvements to the delivery of Ministry and Corporation services. Subsequent reports are now to be produced on a quarterly basis and analyzed for issues and trends to help determine if there is a need for corrective action.

## Management of Consulting Services

### Recommendation

*To help ensure that consultants are engaged in a fair and competitive manner and that value for money is being achieved, the Ministry and the Ontario Tourism Marketing Partnership Corporation should comply with the Management Board of Cabinet directives on the acquisition of consulting services. Special emphasis should be placed on improving the monitoring and evaluation of consultants' performances and on improving contracting practices.*

### Current Status

The Ministry informed us that controls to improve procurement practices and execution of consulting contracts were implemented in January 2003. According to the Ministry, staff have been provided with regular training and updates.

The Ministry indicated that the Ontario Tourism Marketing Partnership Corporation developed a draft manual of administration that included detailed procurement policies and that was to be presented to the Finance and Audit Committee for approval in September 2004. The Corporation also hired a procurement/contract co-ordinator to provide expertise in procurement, requests for proposals, contracts, and other related items. One of the co-ordinator's first assignments will be to provide staff training on using the new procurement policies.

## INFORMATION MANAGEMENT

### Tourism Consumer Information System

#### Recommendation

*To support the efficient and economic administration of systems development projects, the Ministry and the Ontario Tourism Marketing Partnership Corporation (Corporation) should ensure that:*

- *a transfer of knowledge occurs from consultants to staff to avoid a continuous reliance on consultants;*
- *all significant deliverables and options are included in project business cases and all required approvals have been received;*
- *requests for proposals are well researched and provide a clear description of project requirements; and*
- *financial and operational risks are adequately managed and shared with the vendor.*

#### Current Status

The Ministry informed us that the Ontario Tourism Marketing Partnership Corporation is to facilitate the transfer of knowledge from consultants to staff to the extent feasible—total transfer may not always be possible, as consultants' work is often highly specialized. In late 2002, ministry staff were provided with a training session on key procurement risks, preparation of business cases and requests for proposals, consulting services, mitigation strategies, and documentation. Yearly refresher updates on proper procurement processes began to be provided to staff in 2003.

### Facilities and Attractions Databases

#### Recommendation

*To help ensure that tourist information is collected in an economical and efficient manner and provides prospective tourists with complete and accurate information, the Ministry and the Ontario Tourism Marketing Partnership Corporation should:*

- *establish procedures to share information between their current databases and consider establishing one shared database;*
- *review the feasibility of developing a single method of obtaining and verifying data from tourist operators; and*
- *determine the practicality of entering into partnerships to share data on tourist establishments with other organizations, such as municipal and regional travel organizations.*

### Current Status

The Ministry informed us that the Ministry's and the Ontario Tourism Marketing Partnership Corporation's databases would not be combined due to their different data requirements and analytical needs.

The Ministry and the Corporation reviewed the feasibility of developing a new data collection process. As a result, an integrated data collection method was established in May 2004.

The Ministry informed us that it was exploring ways to make data on tourism establishments available to other organizations.

## MINISTRY OF TRAINING, COLLEGES AND UNIVERSITIES

# 4.11–Training Division

### (Follow-up to VFM Section 3.11, *2002 Annual Report*)

## BACKGROUND

The mandate of the Training Division (Division) of the Ministry of Training, Colleges and Universities is to set standards for employment services and adult literacy, to help employers develop a skilled workforce to stay competitive, and to provide leadership on labour-market and training issues. The Division's programs and services are intended to assist individuals and employers in increasing skill levels and to help individuals make the transition from unemployment to employment and from education and training to the labour force.

Division expenditures for the 2001/02 fiscal year totalled $346.3 million. Our 2002 audit focused on the following major programs: Job Connect; Summer Jobs Service; Apprenticeship; and Literacy and Basic Skills. These programs account for approximately 75% of the Division's expenditures.

Colleges of Applied Arts and Technology (community colleges), school boards, and community-based, not-for-profit organizations form the network of agencies responsible for delivering three of the major transfer-payment programs: Job Connect; Summer Jobs Service; and Literacy and Basic Skills. Employers are the primary deliverers of apprenticeship training, while community colleges and private training institutions that are funded by the Ministry and the federal government deliver in-school training assistance.

In our *2002 Annual Report*, we concluded that the systems and processes necessary to ensure cost-effective and efficient delivery of services to meet the programs' objectives and expected outcomes were not yet fully implemented. Some of our specific observations included:

- While the Ministry had set clear expectations for the performances of its delivery agencies and linked funding to the achievement of those expectations, it did not have adequate procedures to ensure that the actual results that the agencies reported were reliable and that service-delivery requirements were being met.
- Efforts to co-ordinate enforcement responsibilities and share information with the Ministry of Labour and other bodies responsible for workplace inspections had not been sufficient to determine the extent to which uncertified individuals were working in restricted trades. Effective enforcement of restricted trades is necessary to ensure that legislated objectives for protecting public and workplace safety are met and to maintain the value of obtaining certification in restricted trades.

- The Ministry was not monitoring the quality of apprenticeship training provided by employers and in-school training providers.
- The systems and procedures needed to collect and report meaningful performance information were under development. The Ministry had not linked funding for Literacy and Basic Skills services to performance in providing quality training.

We also found that the Ministry did not adequately control the acquisition and management of approximately $11 million of consulting and other services that were acquired on its behalf through not-for-profit agencies over the past several years. In particular, the Ministry did not adhere to prudent purchasing practices and did not obtain the approvals from the Minister and the Management Board of Cabinet that would have been required if the projects had been undertaken and the services acquired by the Ministry directly. We found that:

- Services amounting to about $8 million were acquired from private-sector suppliers with little or no competition.
- GST charges totalling $600,000 were incurred because the agencies were not GST-exempt—$235,000 of that amount was overbilled and should be recovered.

We made a number of recommendations for improvement and received commitments from the Ministry that it would take corrective action. Some corrective actions were underway at the time of our audit.

# CURRENT STATUS OF RECOMMENDATIONS

According to information we received from the Ministry of Training, Colleges and Universities, progress has been made on all of the recommendations in our *2002 Annual Report,* with significant progress being made on several. The current status of each of our recommendations is as follows.

## *JOB CONNECT AND SUMMER JOBS SERVICE PROGRAMS*

## Measuring and Reporting on Program Effectiveness

### Recommendation

*To help ensure its Continuous Improvement Performance Management System (CIPMS) operates as intended to monitor and improve the overall performance of delivery agencies for the Job Connect and Summer Jobs Service programs, the Ministry should:*

- *establish procedures to periodically verify the reliability of the performance information reported by delivery agencies;*

- *complete the development of benchmarking for the Job Connect program to allow comparisons with other jurisdictions; and*
- *establish more meaningful measures for assessing the performances of the Summer Jobs Service delivery agencies and the effectiveness of the program overall.*

### Current Status

According to the Ministry, the following actions have been taken to periodically verify the reliability of the performance information reported by the delivery agencies:

- Site-visit procedures have been updated, documented, and implemented. These procedures include using a risk-based management-decision model for site visits and a tracking mechanism. Pre-testing of the updated process was completed in March 2003. In September 2003, guidelines and risk-based tools were issued to ministry staff for prioritizing and scheduling visits to Job Connect and Summer Jobs Service agencies.
- A consultant was hired in August 2003 to validate the accuracy of results reported in 2003/04 by all funded sites in the Job Connect program, with respect to employment outcomes and participant and employer satisfaction. The consultant identified: 1) barriers to surveying employers, participants, and good processes; and 2) practices for gathering and reporting results. A final report was received in April 2004.
- A benchmarking plan was developed for the Job Connect program. The first step was to validate employment and satisfaction results, as mentioned previously. Inter-provincial benchmarking is scheduled to begin in the 2004/05 fiscal year. The Ministry is working with contacts in other provinces to identify common elements of comparison benchmarking. The Ministry will publicly report its results in 2005/06.

The Ministry also informed us that new measures to assess satisfaction were implemented for the Summer Jobs Service program in 2004/05.

## Monitoring Compliance with Program Guidelines

### Recommendation

*To help ensure that delivery agencies for Job Connect and Summer Jobs Service programs comply with ministry guidelines and that the performance information on which funding is based is reliable, the Ministry should establish a risk-based program of periodic visits by field consultants to delivery agencies.*

### Current Status

The Ministry indicated, as we noted previously, that site-visit procedures have been updated, documented, and implemented. The procedures now include using a risk-based management-decision model for site visits, as well as guidelines, forms, and a tracking mechanism.

## APPRENTICESHIP PROGRAM

### Measuring Program Effectiveness

**Recommendation**

*The Ministry should ensure that the information and performance management systems it is developing will, as soon as possible, allow it to begin reporting publicly on achievements with respect to apprenticeship completion and employment rates as well as the extent to which the apprenticeship program is meeting the expectations of apprentices and employers.*

**Current Status**

The Ministry informed us that it had completed a draft Logic Model for the Apprenticeship program that links program resources, activities, outputs, and short-, medium-, and long-term outcomes. The Ministry also indicated that it was in the process of reviewing its core business objectives for the program and developing outcome-based performance measures on effectiveness and customer service that would capture achievements with respect to apprenticeship completion, employment rates, and the extent to which the program is meeting expectations.

### Increasing Opportunities for Apprenticeships

In our *2002 Annual Report*, we indicated that we would follow up on the Ministry's efforts to expand opportunities for apprenticeship. The Ministry advised us that it has added seven new apprenticeship opportunities since April 2002: automotive glass technician; elevating devices mechanic; pool and hot tub installer; welder; special events co-ordinator; chef; and turf equipment technician. The Ministry also indicated that the number of new registrations had increased from 15,820 in 2001/02 to 19,098 in 2003/04, with a target of 26,000 in 2007/08.

### Updating Apprenticeship Standards

**Recommendation**

*To help ensure that apprenticeship graduates acquire the skills needed to meet employer needs, the Ministry should ensure that all training standards and examinations are up to date and reflect current demands of the workplace as soon as possible.*

**Current Status**

Our *2002 Annual Report* identified seven active trades for which the examinations had not been updated for several years—some for as long as 30 years. According to the

Ministry, since our audit, examinations for four trades—domestic and rural electrician, construction millwright, motive power machinist, and transmission technician—have now been updated. Examinations for the three remaining trades—alignment and brakes, tower crane operator, and mobile crane operator-2—were under development and are expected to be completed in the 2004/05 fiscal year.

Our 2002 audit also identified two active trades for which training standards had not been updated in at least 10 years. According to the Ministry, since our audit, the training standards for domestic and rural electrician have been developed; the standards for motorcycle mechanic are under development and are expected to be completed during the 2004/05 fiscal year.

## Monitoring Program Quality and Compliance

### Recommendation

*To better ensure the quality of apprenticeship training and compliance with training requirements, the Ministry should monitor the performance of employers and in-class training providers. Such monitoring should include:*

- *on-site visits by field staff to employers and training providers with identified performance problems; and*
- *tracking of the extent and results of monitoring visits to ensure any necessary corrective action is taken.*

### Current Status

The Ministry indicated that the new apprenticeship information system, when completed, will permit ministry staff to record the results of site visits for monitoring purposes. The Ministry expects that the reports provided by the new information system will help staff identify employer and training-provider performance problems. Once information-sharing agreements and enforcement protocols with the Ministry of Labour are in place, a risk-based monitoring policy and process will also be developed.

## Enforcement of Legislation on Restricted Trades

### Recommendation

*To help reduce the extent of uncertified individuals working in restricted trades, the Ministry should:*

- *establish information-sharing protocols with the Ministry of Labour and other organizations that conduct safety inspections;*
- *train field staff on ministry expectations for enforcement across the province;*

- *use its new information system to help focus enforcement effort on industries, trades, and workplaces where the risk is greatest; and*
- *monitor the impact of enforcement activities on apprenticeship program results.*

### Current Status

The Ministry informed us that to reduce the number of uncertified individuals working in restricted trades, it has drafted a protocol for sharing information with the Ministry of Labour. A working committee was established with the Ministry of Labour to implement the protocol and to address other enforcement issues. However, implementation depends on resolving privacy concerns relating to the exchange of client information among ministries; as well, the Ministry of Labour's computer system must be upgraded to enable it to record/report certification checks.

Our *2002 Annual Report* found that there were no formal information-sharing protocols with the Ministry of Transportation and the Electrical Safety Authority (ESA), other organizations that conduct safety inspections. Information sharing with the Ministry of Transportation can be accomplished by system changes. The Ministry holds regular discussions with the Ministry of Consumer and Business Services and the ESA. However, due to the required regulatory and system changes, it will be three to five years before any initiatives can be fully implemented whereby the ESA would assume a greater role in enforcing electrician certification. At that time, appropriate information-sharing initiatives would be undertaken.

The Ministry indicated that it was working with the Ministry of Labour to enhance enforcement effectiveness. For instance, pilots for joint enforcement efforts have been introduced in Hamilton and Ottawa, focusing on electricians.

Our 2002 audit also noted that field staff required more training regarding the Ministry's expectations for enforcing non-compliance in restricted trades. We were advised that work was now underway to clarify existing enforcement practices and to identify additional activities that could be undertaken within the current program. Nine ministry employees attended workshops to improve co-operation and communication among the ministries that provide enforcement services. To help focus enforcement efforts where the greatest risks exist, the Ministry informed us that it is incorporating system design changes into the new apprenticeship information system. These changes will be based on discussions with the ministries of Labour and Transportation.

## Effectively Assessing Prior Learning and Academic Readiness

### Recommendation

*To better ensure that the Ministry's learning assessment tools for the Apprenticeship program—both the assessment of prior learning and of academic readiness—are being used effectively, the Ministry should:*

- *standardize and make available exemption tests for each applicable trade;*
- *develop and communicate to ministry and college staff a standard policy on the use and administration of such tools; and*
- *monitor the use and results of both tools and take corrective action where necessary.*

### Current Status

According to the Ministry, the following actions have been taken so that apprenticeship candidates can be assessed more effectively. The Ministry now offers exemption tests for 38 trades, an increase of 31 trades since 2002. It is planning to add exemption tests for 16 more trades in 2004/05, leaving 38 trades to be added by the end of 2005/06. A policy on the use of exemption tests has been developed and communicated to ministry staff. An exemption-test service agreement has been drafted with the colleges and will be incorporated into the 2004/05 funding agreements for apprenticeship training.

The general policy on Evaluating Academic Readiness for Apprenticeship Training (EARAT) was reviewed and quarterly reports on usage of this tool are being received from the field offices. A work plan was developed to test the feasibility of using the EARAT tool in the Job Connect and the Literacy and Basic Skills programs. Pilot projects will determine its potential for assessing candidates in these programs.

## Managing Program Funding for In-school Training

### Recommendation

*To help ensure that funding levels for in-school apprenticeship training are appropriate, the Ministry should:*

- *work with training providers to develop financial reporting that reflects the actual cost of program delivery; and*
- *introduce funding that is linked to the provision of training that results in positive outcomes for apprentices and employers.*

### Current Status

The Ministry indicated it will undertake a review of in-school funding in 2004/05 and develop a proposal based on this review. When the outcome-based performance measures are established and the new apprenticeship information system is implemented, funding will be linked to performance.

## *LITERACY AND BASIC SKILLS PROGRAM*

### Tracking and Reporting Participant Outcomes

#### Recommendation

*To strengthen accountability and provide a sound basis for making informed funding decisions about its Literacy and Basic Skills program, the Ministry should:*

- *ensure all program delivery agencies consistently conduct and report the results of their participant outcome surveys;*
- *require that all program delivery agencies take steps to minimize lost contacts and to report them as part of program performance;*
- *track and report the length of time clients remain in the program; and*
- *report actual performance results in its Business Plan to permit a comparison with its commitments.*

#### Current Status

The Ministry indicated that the Literacy and Basic Skills program had clarified the participants with whom agencies need to follow up at the exit stage, and again at three and six months after exit. The policy regarding follow-ups has been finalized and distributed to agencies. Lost contacts are now included in the program-outcome calculations, and a goal to reduce the number of lost contacts to 15% or less of learners exiting the program was included in the program's Business Plan for 2003/04.

Ministry staff developed a baseline report on how long clients remained in the program, based on learners who exited up to March 2003. They determined that learners spent an average of 133 days in the system before exiting. The Ministry indicated that it will continue to collect data annually and refine its analysis of the data. The Ministry has not yet reported actual performance results related to clients who received intensive training.

### Linking Funding to Performance

#### Recommendation

*To help ensure that funding to delivery agencies for the Literacy and Basic Skills program is appropriate and equitable based on the level and quality of services provided, the Ministry should implement a funding model that:*

- *sets out the conditions and process which will result in adjustments in funding; and*

- *recognizes whether delivery agencies have been successful in helping their clients achieve positive outcomes.*

### Current Status

The Ministry indicated that a consultant was hired to review the existing funding model. Initial recommendations were received in mid-2003. Ministry staff reviewed the consultant's recommendations and developed options for consideration. According to the Ministry, the plan is to phase in a new funding model starting in the 2005/06 fiscal year.

## Monitoring Delivery Agency Performance

### Recommendation

*To more efficiently and effectively ensure that field consultants and delivery agencies for the Literacy and Basic Skills program are meeting its expectations, the Ministry should:*

- *ensure that field consultants formally assess the risk of performance problems when selecting and conducting monitoring visits to delivery agencies; and*
- *track and summarize the results of all monitoring visits to determine whether visits are being conducted as expected and whether corrective actions are being taken when problems have been identified.*

### Current Status

Our audit had noted that it was important for field consultants to visit agencies to evaluate their adherence to program guidelines and standards but that agency monitoring through on-site visits needed to be strengthened. The Ministry has indicated that, since April 2003, field consultants have been using a new monitoring form to rate agency performance. The new form was redesigned to focus on financial and administrative accountability, program delivery, community links, and client feedback. Agencies are rated as not meeting requirements, meeting requirements, or exemplary, based on assessments in each of the focus areas. These ratings have been integrated into the decision-making process for selecting agencies to visit beginning in 2004/05 and will determine the frequency of field visits to the agencies. A site-visit tracking system is still under development.

## *ACQUISITION AND MANAGEMENT OF CONSULTING AND OTHER SERVICES*

### Recommendation

*To better ensure that value for money is achieved in acquiring consulting and other services, the Ministry should:*

- *comply with government policies for the acquisition of such services regardless of the source of funds used to acquire them; and*
- *recover any funding provided to transfer-payment agencies that relates to GST that they were not required to pay.*

### Current Status

With respect to the acquisition of consulting and other services, the Ministry has completed a ministry-wide assessment project to identify, prioritize, and mitigate risks relating to procurement. Procurement training for senior ministry staff was developed in conjunction with the Shared Services Bureau, and the training has been completed.

The Ministry also indicated that a repayment schedule was agreed to in order to recover the GST, which the transfer-payment agency did not have to pay. As well, the 2003/04 Job Connect and Summer Jobs Service contracts were amended to include the reporting and repayment of GST rebates.

## CHAPTER FIVE

# Public Accounts of the Province

## INTRODUCTION

The Public Accounts for each fiscal year, ending March 31, are prepared under the direction of the Minister of Finance, as required by the *Ministry of Treasury and Economics Act* (Act). The Public Accounts comprise the province's annual report, including the province's financial statements, and three supplementary volumes.

The financial statements of the province are the responsibility of the government of Ontario. This responsibility encompasses ensuring that the information in the statements, including the many amounts based on estimates and judgment, is presented fairly. The government is also responsible for ensuring that a system of control, with supporting procedures, is in place to provide assurance that transactions are authorized, assets are safeguarded, and proper records are maintained.

Our Office audits the financial statements of the province. The objective of our audit is to obtain reasonable assurance that the government's financial statements are free of material misstatement—that is, that they are free of significant errors or omissions. The financial statements, along with the Auditor's Report on them, are included in the province's annual report.

The province's annual report contains, in addition to the province's financial statements, summaries and analyses of the province's financial condition and fiscal results. Providing such information enhances the fiscal accountability of the government to both the Legislative Assembly and the public.

The three supplementary volumes of the Public Accounts include the following:

- Volume 1 contains the Consolidated Revenue Fund schedules and ministry statements. Commencing this fiscal year, these schedules and statements reflect the financial activities of the government and its ministries on the accrual basis of accounting.
- Volumes 2A and 2B contain the audited financial statements of the significant provincial Crown corporations, boards, and commissions that are part of the government's "reporting entity" (that is, all organizations whose activities are

included in the government's financial statements), as well as other miscellaneous financial statements.

- Volume 3 contains detailed schedules of ministry payments, as well as the salary disclosure required under the *Public Sector Salary Disclosure Act, 1996.*

Our Office reviews the information in the annual report and Volume 1 of the Public Accounts for consistency with the information presented in the financial statements.

Commencing in the 2003/04 fiscal year, the Act requires that, except in extraordinary circumstances, the government deliver its annual report to the Lieutenant Governor in Council on or before the 180th day after the end of the fiscal year. The three supplementary volumes must be submitted to the Lieutenant Governor in Council before the 240th day after the end of the fiscal year. Upon receiving these documents, the Lieutenant Governor in Council must lay them before the Assembly or, if it is not in session, make the information public and then, when the Assembly resumes sitting, lay it before the Assembly on or before the 10th day of that session. The annual report and three supplementary volumes of the Public Accounts for the 2003/04 fiscal year were all made public on September 27, 2004.

# THE PROVINCE'S 2003/04 FINANCIAL STATEMENTS

The *Audit Act* requires that the Provincial Auditor report annually on the results of the Auditor's examination of the province's financial statements. This year, as a result of the Provincial Auditor's retirement in September 2003, it was again my responsibility, in my capacity as the Assistant Provincial Auditor, to express an audit opinion on the financial statements. I am pleased to report that my Auditor's Report to the Legislative Assembly on the financial statements for the year ended March 31, 2004 is clear of any qualifications or reservations and reads as follows:

> To the Legislative Assembly of the Province of Ontario
>
> I have audited the consolidated statement of financial position of the Province of Ontario as at March 31, 2004 and the consolidated statements of operations, change in net debt, and cash flow for the year then ended. These financial statements are the responsibility of the Government of Ontario. My responsibility is to express an opinion on these financial statements based on my audit.
>
> I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The audit also includes assessing the accounting principles used and significant estimates made by the Government, as well as evaluating the overall financial statement presentation.

In my opinion, these financial statements present fairly, in all material respects, the financial position of the Province as at March 31, 2004 and the results of its operations, the changes in its net debt, and its cash flows for the year then ended in accordance with accounting principles recommended for governments by the Canadian Institute of Chartered Accountants.

[signed]

Toronto, Ontario
August 20, 2004

Jim McCarter, CA
Assistant Provincial Auditor

# EXPANDING THE GOVERNMENT REPORTING ENTITY

The "government reporting entity" refers to, collectively, all of the organizations whose activities are included in the government's financial statements. One of the most critical aspects of reporting on a government's financial affairs is deciding which organizations—from among, for example, ministries, agencies, Crown-controlled corporations, boards, commissions, and organizations receiving transfer payments—should be included in the reporting entity. Inclusion in the reporting entity essentially means that an organization's operating results and its assets and liabilities are consolidated with or otherwise incorporated into the government's financial statements, so that they form part of both the government's *annual* deficit or surplus and its *accumulated* deficit or surplus.

The government's financial statements reflect the accounting standards recommended by the Public Sector Accounting Board (PSAB) of the Canadian Institute of Chartered Accountants (CICA). The PSAB standard relating to the reporting entity for the fiscal year ended March 31, 2004 recommends that an organization be included in the government's financial statements if:

1) it is accountable for the administration of its financial affairs and resources either to a minister of the government or directly to the Legislature, and

2) it is owned or controlled by the government.

In accordance with that standard, Ontario's financial statements for the fiscal year ended March 31, 2004 include, in addition to the activities of all government ministries, those of 30 of its most significant organizations, such as Ontario Power Generation Inc., Hydro One Inc., the Ontario Electricity Financial Corporation, the Ontario Lottery and Gaming Corporation, the Liquor Control Board of Ontario, GO Transit, and the Ontario Housing Corporation. The activities of less significant government organizations are only included to the extent that any funding provided by the ministries responsible for them are already reflected in the statements.

In August 2003, PSAB revised its reporting-entity standard for fiscal years beginning on or after April 1, 2005. The new standard reduces the inclusion criteria to one overall consideration—that of government control. In essence, if a government controls an entity, it must be included in the government's reporting entity. Assessing the degree of government control is not an exact science and requires the exercise of professional judgment. Accordingly, the standard offers extensive guidance in assessing the degree to which government control exists over any particular entity.

Many entities that did not meet the previous inclusion criteria need to be assessed against this new PSAB standard. For the most part, these are public sector or quasi-public-sector institutions that operate outside of the government ministry and agency structure but are primarily funded by the government. While there are hundreds of these organizations, the most significant ones are in the "SUCH" sector ("SUCH" stands for school boards, universities, colleges, and hospitals, including long-term-care facilities). Including these institutions in the government's financial statements would have a significant impact on the province's reported financial position and its annual operating results.

In our last two Annual Reports, we have urged the Ministry of Finance to complete such an assessment and reported on our own efforts to examine various sources of evidence—such as legislation, regulations, reporting arrangements, and ministry accountability documents pertaining to SUCH-sector institutions —to assess whether any SUCH-sector institutions should be considered for inclusion under the new standard. We reported our view that the two strongest candidates for future consolidation into the government reporting entity were Ontario's colleges and school boards, followed to a lesser extent by Ontario's hospitals and long-term-care facilities.

This year we are pleased to report that the government has completed its own reporting-entity assessment. The government announced in the 2004 Ontario Budget its intention to add the province's 105 school boards and school authorities, 24 community colleges, and 154 hospitals to its reporting entity. In accordance with the new standard, these institutions would be consolidated into the province's financial statements for the first time in the 2005/06 fiscal year.

This change will be significant. Effective for the 2005/06 fiscal year, the province's annual surplus or deficit will include the impact of these organizations' annual surpluses or deficits, and their net assets or net debts will be included in the calculation of the province's net debt. Transfers to these organizations for capital purposes will no longer be treated as a current expense of the government; rather, the capital assets acquired or constructed with these transfers will form part of the province's investment in capital assets.

As well as complying with the new PSAB standard, inclusion will make Ontario's financial statements more comparable to those of many other provinces that are currently including these organizations in their reporting entities, as can be seen in the chart below.

**Status of School Boards, Colleges, and Hospitals in Reporting Entities**

| Jurisdiction | Fiscal Year of Latest Published Financial Statements | School Boards Included | Colleges Included | Hospitals Included |
|---|---|---|---|---|
| British Columbia | 2003/04 | ✓[1] | ✓[1] | ✓[1] |
| Alberta | 2003/04 | (✓)[2] | (✓)[2] | (✓)[2] |
| Saskatchewan | 2003/04 |  | ✓ | ✓ |
| Manitoba | 2002/03 |  | ✓ | ✓ |
| Quebec | 2002/03 |  |  |  |
| New Brunswick | 2002/03 | ✓ | ✓ | ✓ |
| Nova Scotia | 2002/03 | ✓ | ✓ | ✓ |
| Prince Edward Island | 2002/03 | ✓ |  | ✓ |
| Newfoundland and Labrador | 2002/03 | ✓ | ✓ | ✓ |

[1] The government of British Columbia indicated in its 2003/04 summary financial statements that it would include these institutions in their reporting entity commencing in the 2004/05 fiscal year.

[2] The government of Alberta indicated in its 2003/04 summary financial statements that it would review these institutions and, if it determines that control exists, include them in its reporting entity commencing in the 2006/07 fiscal year.

In Ontario, there will be a number of issues to resolve over the next couple of years regarding the consolidation of these entities. These issues include dealing with fiscal year ends and accounting policies that differ between the entities and the province; obtaining reasonable assurance that the new consolidated amounts have been accounted for correctly and represent bona fide provincial assets, liabilities, revenues, and expenses; and ensuring that the presentation and disclosure of these consolidated entities within the government's financial statements is appropriate.

For the SUCH-sector organizations to be fully consolidated into the reporting entity, as required by the new PSAB standard, their accounting policies must be the same as those of the province and their revenues, expenses, assets, and liabilities must be combined on a line-by-line basis with those of the province. Recognizing the challenges posed by these requirements, PSAB approved transitional provisions in March 2004 that would temporarily allow governments to consolidate the new organizations on a "modified equity" rather than a "fully consolidated" basis. These provisions are in effect until fiscal years beginning on or after April 1, 2008. Under the provisions, as long as certain criteria are met, the new organizations' accounting policies are not required to be the same as those of the province and their total net assets and surpluses or deficits may be shown as a single line item on the province's statements.

In its 2004 Budget, the government expressed serious concerns about the eventual need to consolidate these new organizations on a line-by-line basis and expressed its preference that modified equity accounting be adopted on a permanent basis, given the nature of the relationship between the government and these organizations. We will work with the Ministry of Finance to resolve this issue prior to the expiry of the PSAB transitional provisions.

# STRANDED DEBT OF THE ELECTRICITY SECTOR

In 1998, when the Ontario government restructured the electricity sector, one of the most critical steps in the restructuring process was determining the fair market value of the assets to be transferred from Ontario Hydro to the new hydro operating companies—Ontario Power Generation (OPG) and Hydro One—in a competitive, as opposed to a monopoly, environment. Both Ontario Hydro and the government, assisted by private-sector investment firms and other experts, recognized that the market value of these assets in a competitive environment would be significantly less than the amounts that were recorded in the accounts of Ontario Hydro. The shortfall between these revalued assets and the value of Ontario Hydro's total debt and other liabilities being transferred to the new entities constituted "stranded debt."

The stranded debt became the responsibility of the Ontario Electricity Financial Corporation (OEFC), a new agency of the province. The Ministry of Finance determined that the total debt and other liabilities of Ontario Hydro, which were assumed by the OEFC, amounted to $38.1 billion. This amount exceeded the market value of Ontario Hydro's assets of $18.7 billion that the OEFC also received. The shortfall created a stranded debt of approximately $19.4 billion, which represented the amount of debt and other liabilities of the OEFC that could not be serviced in a competitive environment. Consequently, when the OEFC commenced operations on April 1, 1999 it had a stranded debt, or an unfunded liability, of $19.4 billion that the province, through the OEFC, became responsible for retiring.

Since that time, the stranded debt included in the province's financial statements has increased to $20.6 billion. While this stranded-debt liability is now included with the province's other liabilities, the government intends for the stranded debt to be recovered from electricity ratepayers rather than from taxpayers. However, for several years now we have expressed the concern that there is an increasing risk that part or all of the stranded debt will not be recovered from electricity ratepayers. Recent developments continue to support this view. For instance, during the 2003/04 fiscal year, the stranded debt liability increased by another $367 million. In fact, the stranded debt has increased almost every year since April 1, 1999 when the electricity sector was restructured, as shown in the following table.

**Electricity Sector Stranded Debt, 1999–2003/04**

| Fiscal Year End | ($ billion) |
|---|---|
| at April 1, 1999 | 19.4 |
| 1999/2000 | 20.0 |
| 2000/01 | 20.0 |
| 2001/02 | 20.1 |
| 2002/03 | 20.2 |
| 2003/04 | 20.6 |

*Prepared by Office of the Provincial Auditor*

The primary reasons for the increase in the stranded debt in the 2003/04 fiscal year were the $253 million cost of the Ontario government's 4.3 cent/kWh price freeze for low-volume and designated consumers and OPG's net loss of $491 million for the year ended December 31, 2003, which prevented it from making the expected contribution to OEFC to reduce the stranded debt. This loss was due to OPG writing off $576 million of the value of its coal-fired generating stations—a move that was made necessary by a government policy commitment to phase out coal-fired generating stations by the end of 2007.

When the stranded debt was assumed by the OEFC, the government established a long-term plan to retire the debt solely from dedicated revenue streams derived from the electricity sector. This long-term plan is updated annually to reflect current information and assumptions. As with any long-term plan, there is a high degree of uncertainty as to whether forecasted results will be achieved. In the past year, two significant developments have occurred that are indicative of these uncertainties.

First, on June 15, 2004, the government introduced legislation to again reform the electricity sector. If passed by the Legislature, these latest reforms would result in a combination of a fully regulated and a competitive electricity sector, with different generators receiving different prices set through a variety of mechanisms. The government estimates that this move to a regulated price structure will likely result in significantly lower long-term results from what had previously been projected for OPG operating wholly in a competitive marketplace. As OPG earnings are a key source for retiring the stranded debt, this means that it would take longer to pay off the stranded debt than initially projected.

Second, the current stranded-debt liability of $20.6 billion includes $4.0 billion relating to liabilities for power-purchase contracts entered into by the old Ontario Hydro. Under these contracts, power is to be purchased at prices that are expected to exceed current market prices. If the proposed reforms discussed above are passed by the Legislature and the reformed market becomes operational, the OEFC would receive the actual contract prices for generated power from electricity consumers and the government would no longer subsidize these above-market prices. Under this scenario, the OEFC and the province believe that the liability from above-market contract prices could be eliminated when the reforms are implemented. The Ontario Budget for the 2004/05 fiscal year estimates that the fiscal impact of this would be a one-time revenue gain of almost $4.0 billion in the year the proposed legislation is implemented, which the government expects to be the 2004/05 fiscal year. We will work with the OEFC and the province to assess whether this proposed accounting treatment is appropriate.

## ACCOUNTING FOR CAPITAL ASSETS

In January 2003, PSAB revised a 1997 standard setting out rules for the recognition, measurement, amortization, and presentation of capital assets in a government's financial statements. Until recent years, most governments, including that of Ontario, had charged to operations 100% of the cost of capital assets in the year such assets were acquired or constructed. The revised standard recommends that, similar to the private sector, the cost of capital assets be recorded as assets in government financial statements and be amortized to expense over their estimated useful lives.

The government phased in its adoption of these PSAB recommendations beginning in the 2002/03 fiscal year by valuing and capitalizing the province's land holdings, buildings, and transportation infrastructure. As a result, in 2003 the government recognized for the first time over $13 billion of net capital investments. These account for an estimated 90% or more of the government's total tangible capital assets.

Although no specific timetable has been set, the government has indicated that over the next several years it intends to adopt this PSAB standard for Ontario's remaining tangible capital assets, such as its computer systems, vehicles and equipment, and other smaller-value capital items. We encourage the government to complete its capitalization project as soon as possible and include these assets and related amortization in its financial statements.

## PENSION BENEFITS GUARANTEE FUND

The purpose of the Pension Benefits Guarantee Fund (Fund) is to guarantee the payment of certain pension benefits when eligible defined benefit pension plans are "wound up" (that is, terminated) under conditions specified in the *Pension Benefits Act*. The Superintendent of Financial Services, pursuant to the *Pension Benefits Act*, is responsible for the administration of the Fund.

Pension payouts from the Fund are funded by assessments paid by pension-plan sponsors (primarily from the private sector). Since Fund liabilities are not considered to be a financial responsibility of the province, the Fund is classified as a trust for provincial financial-statement accounting purposes. As such, the Fund is excluded from the government reporting entity, although the assets and liabilities of the Fund are disclosed in the notes to the province's financial statements.

Events occurring over the last couple of years have the potential to require a change to the classification of the Fund as a trust. Because considerable claims have been made against the Fund over the last few years, the Province provided the Fund with a $330 million interest-free loan in the 2003/04 fiscal year. This non-interest-bearing loan is repayable over 30 years in equal installments of $11 million each year. The cost of this loan to the province was reflected in the 2003/04 financial statements as $162 million, which reflects the interest foregone at market rates over the loan's full term. As a result of the claims and the loan, the Fund has an unfunded liability of over $107 million as at March 31, 2004.

The future financial health of the Fund is also affected by the potential for significant future claims from three companies operating under a stay under Canadian federal legislation entitled the *Companies' Creditors Arrangement Act*, which allows financially troubled corporations the opportunity to restructure their affairs. While as of March 31, 2004, the outcomes of the restructuring efforts of these companies are not determinable, the possible subsequent claims against the Fund could be in the hundreds of millions of dollars.

Our Office will be closely monitoring future developments of the Fund to ensure it continues to meet the criteria for trust classification. If the burden to the plan sponsors of funding pensions relating to wound-up pension plans is too great and the province provides recurring direct financial assistance to the Fund, then the Fund would likely not be considered a trust for financial statement purposes. This is because, once the liabilities of a trust are no longer entirely funded by external parties, the activities of the trust would need to be considered for inclusion in the province's financial statements.

## INTEGRATED FINANCIAL INFORMATION SYSTEM

In late 1998, the Management Board of Cabinet approved a Ministry of Finance proposal for a government-wide move to an integrated financial system. The resulting system, known as the Integrated Financial Information System (IFIS), is replacing the existing central accounting system of the government, which has operated under the modified cash basis, along with a number of different legacy accounting systems used by government ministries. IFIS is being implemented in phases, or waves.

Implementation began in two pilot ministries in November 2002. As of March 31, 18, or approximately 70%, of Ontario's ministries, responsible for just over 40% of the government's total expenditures, were using the IFIS system. In fall 2004, all remaining ministries migrated to the IFIS system. The Office of the Provincial Controller has overall responsibility for IFIS, and the Shared Services Bureau (SSB) is the primary business operator processing IFIS transactions.

Unlike the previous accounting systems used by the government, the IFIS system is a full accrual accounting system and supports the government's adoption over the last several years of accrual accounting for its budget, its estimates, and its appropriation control system. It is also now the main source of accounting information used in the production of the Public Accounts of the province, including its summary financial statements. Accordingly, as part of our audit of the province's financial statements, this year we conducted additional work on the new system. The purpose of our work was to update our understanding of this new system and to obtain assurance that key internal controls were operating satisfactorily and that government transactions were being properly processed. We did not include revenue transactions in the scope of this review, since to date very little revenue is being processed by the IFIS system. We also were able to place some reliance on work conducted by internal audit and an independent control review commissioned annually by the Ministry of Finance.

While we found the overall control environment to be satisfactory, we did note certain control weaknesses that we recommended be addressed in order to improve system controls and reduce the risk of fraud and error. Our concerns included the following:

- Encumbrances are a means of recording commitments for future expenses in IFIS and are a tool for ensuring appropriations are not exceeded. The Office of the Provincial Controller, which is responsible for establishing government accounting polices, has issued an encumbrance policy emphasizing the importance of encumbrance information in managing government budgets. The policy calls for all ministries and agencies to encumber all expected future significant transfer payments, service and consulting contracts, leases, and other commitments, with the exception of those relating to salaries, wages, benefits, travel, and certain credit-card transactions. In the case of transfers, encumbrances would be based on signed agreements with transfer-payment recipients; for operating expenditures, they would be based primarily on issued purchase orders. We noted that the majority of transfer payments were as yet not being encumbered, and, while operating expenditures were being encumbered to a greater degree, significant portions were not.
- There were certain inconsistencies between the various transaction-processing centres operated by SSB in the application of controls that ensured the accuracy and completeness of payments and journal processing and the security of advance cheques.

- There was a risk of unauthorized payments because ministries were not always providing updated authority delegations to the transaction-processing centres.
- There were some weaknesses in the application of controls that ensure that suppliers are accurately set up in the IFIS system.
- There were weaknesses in authorization controls that created a risk that invalid requisitions for goods and services could be issued.

Although the weaknesses detected were not significant enough to impact our overall conclusion that the IFIS system was generally reliable, they do need to be rectified. We have received assurance from SSB management that action is currently underway or will be taken shortly to address the concerns under its control. For the remaining issues, we will be working with the Office of the Provincial Controller to ensure that these are also addressed.

# NEW ACCOUNTING STANDARDS AND PROPOSALS

The Public Sector Accounting Board (PSAB) serves the public interest and that of the profession by recommending accounting standards that will improve the financial and performance information reported by governments and other public-sector entities. Such improved information benefits decision-makers and other users of the information.

The most significant issues PSAB has been dealing with over the last year that will or may affect the province's financial statements are briefly outlined below.

## *LIABILITY RECOGNITION*

In June 2004, PSAB approved three new standards on, respectively, liabilities, contingent liabilities, and contractual obligations. Under the standards, governments would recognize a liability when there is a preponderance of evidence that the government has lost its discretion to avoid an obligation. Losing its discretion to avoid an obligation would occur if it has acknowledged and indicated it will act upon its decision to accept responsibility for an obligation and has sufficiently communicated its decision to affected parties. Evidence that the government has done so may exist before formal authorization of a transfer is in place. This standard effectively broadens the definition of a liability to include obligations that result from transactions and events beyond those relating to agreements, contracts, and existing legislation.

## TRANSFER-PAYMENT ACCOUNTING PRACTICES

PSAB has proposed for discussion a new standard for accounting for government transfers by both transferring and recipient governments at the federal, provincial, territorial, and municipal levels. This standard could have a significant impact on the province as over 50% of the Ontario government's expenditures are transfer payments or grants to organizations such as hospitals, school boards, children's aid societies, and others. One of the more difficult issues this proposed standard deals with is multi-year funding—that is, funding that is provided in advance of the years the funds will actually be spent to provide services to the public. The main issue is whether 100% of the funds transferred should be recognized as an expense in the year of the transfer or be recognized as an expense only when the funds are actually spent by the recipient organization providing services to the public.

The discussion draft proposes that, in certain circumstances, a government that pays a transfer in advance of the recipient needing the funds to provide services would record the transfer as an asset. Recognition as an asset is justified where the transferring government has the right to compel the recipient to provide services or acquire or develop service capacity in accordance with the transferring government's terms.

In order for the government to treat a transfer as an asset, the government must stipulate, through a "specific purpose restriction," the nature of the future economic benefit it will acquire. In addition, the specific purpose restriction(s), time requirement(s), and accountability requirements must together describe the means through which the transferring government controls that benefit. In the absence of any one of these stipulations, the government may not treat the transfer as an asset and the entire amount of the transfer would be expensed.

Another significant proposal deals with what are known as "constructive obligations" and whether they should be recognized as liabilities. Constructive obligations arise when a government action raises valid expectations for other parties. For example, the government may publish its intention to grant funds to a certain group of individuals provided they meet certain eligibility requirements, raising an expectation that the group will receive funding if eligible. In contrast with the new liability standard discussed above, the draft proposes that constructive obligations for government transfers do not meet the definition of a liability and should not be recognized as such in government financial statements. The proposed standard specifies that the actions of the executive arm of the government alone would not create a binding obligation for the government that would qualify for recognition as a liability. The standard proposes that only the actions of the Legislature can impose a binding obligation on the government. The authorizing legislation, regulations or by-laws would have to be in place (that is, formally approved) by the financial statement date, and the exercise of authority under that legislation or those regulations or by-laws would have to have occurred by the financial statement date in order for a transfer to be recognized as a liability. This would be a change from the practice currently being followed.

## STABILIZATION FUNDS AND FINANCIAL RESERVES

In March 2004, PSAB approved a guideline to clarify the appropriate presentation by federal, provincial, and territorial governments of information relating to stabilization funds and financial reserves. Funds and reserves, which take a variety of forms, are often used as a mechanism for managing government finances. Although they are not so used in Ontario, funds and reserves are currently used by certain other senior governments. The guideline clarifies that funds and reserves should not be presented on the government's statement of financial position. Governments that choose to provide information about such funds and reserves should do so only in the notes to the financial statements. Funds and reserves should have no impact on the government's measurement and presentation of its current or accumulated surplus or deficit.

## CLARIFICATION OF GAAP

In June 2004, PSAB issued an Exposure Draft proposing a new standard on generally accepted accounting principles (GAAP). This standard would clarify what constitutes GAAP for the public sector and replace existing material in the Public Sector Accounting Handbook relating to what other accounting guidance should be considered when a particular accounting issue is not addressed within the Handbook itself. One of the main changes would be to remove current Canadian public-sector practice as a primary source of GAAP.

## INFORMATION ON MEASUREMENT UNCERTAINTY

Also in June 2004, PSAB approved an Exposure Draft on measurement uncertainty. While the private-sector standard on measurement uncertainty applies only to items recognized on the face of the financial statements, this proposed public-sector standard would also require measurement uncertainty information when significant amounts are disclosed only in financial statement notes, as occurs with certain contingent liabilities.

## DISCLOSURE OF INFORMATION ON BUSINESS SEGMENTS

PSAB has also begun a project on segment disclosures. Examples of segments include health care, education, and social services. The project is expected to result in a new standard requiring that additional financial information with respect to the distinct businesses or activities the government is engaged in be disclosed. The project has been undertaken because concerns have been raised about the level of aggregation of government summary financial statements—such aggregation may not provide sufficiently detailed information to users about the specific activities governments engage in. As well, since the new definition of the reporting entity is expected to increase the number of organizations in the reporting entity, there is a perceived need to help users of financial statements better understand the different types of activities that the government is engaged in.

### FINANCIAL STATEMENT DISCUSSION AND ANALYSIS

In March 2004, PSAB also approved a Statement of Recommended Practice (Practice Statement) for Financial Statement Discussion & Analysis (FSD&A). The Practice Statement provides guidance for the presentation of FSD&A information in a government's financial report. This information would include narrative explanations and graphic illustrations of what happened in the period, highlighting the key relationships among the quantitative data set out in the financial statements, as well as explanations and illustrations of variances and trends. The Practice Statement sets out the qualitative characteristics upon which the FSD&A information should be based and suggests minimum requirements for FSD&A contents. We noted that the government updated its Annual Report this year to reflect the recommendations of this Practice Statement.

### PERFORMANCE REPORTING

A project has also begun that is intended to result in a new Statement of Recommended Practice for reporting on performance. The project has been undertaken to help provide some consistency in performance reporting, as there is currently no national, generally accepted approach to the development of overall performance measurement and reporting in the public sector. The project is designed to develop a set of basic overarching principles that will guide the future development of performance reporting, including a framework for identifying specific performance indicators.

## PROPOSED REVIEW OF PRE-ELECTION FINANCIAL REPORTS

As discussed in Chapter Two, the government tabled Bill 84, an Act to provide for fiscal transparency and accountability, in May 2004. Among other things, this proposed legislation would repeal the *Balanced Budget Act, 1999* and require that the government:

- seek to maintain a prudent ratio of provincial debt to Ontario's gross domestic product;

- plan for a balanced budget unless, as a result of extraordinary circumstances, the government determines that incurring a deficit is consistent with prudent fiscal policy;
- develop a recovery plan for achieving a balanced budget in future whenever a deficit is planned;
- release a multi-year fiscal plan in the budget papers, periodically update this information, and make it available to the public;
- establish an advisory body to give the Minister of Finance advice relating to the budget and fiscal plan; and
- in circumstances to be prescribed by regulation, release a pre-election report on Ontario's finances, to be reviewed by the Provincial Auditor.

The pre-election report is to include the macroeconomic forecasts and assumptions used to prepare the fiscal plan, a description of any significant differences from those forecasts and assumptions, an estimate of Ontario's revenues and expenses, including its major components, information about the ratio of provincial debt to Ontario's gross domestic product, and details on the reserve required to provide for unexpected adverse changes in revenues and expenses. Under this proposed legislation, the Provincial Auditor's mandate would be to determine whether the government's pre-election report is reasonable and to release a statement prior to the election describing the results of our review.

We wrote to the Ministry of Finance in May 2004 regarding our proposed role with respect to the pre-election report and offered some suggested revisions to the proposed bill that in our view would clarify our role. As well, it will be essential that the pre-election report is prepared in time to allow us sufficient time to conduct our review.

# OTHER MATTERS

The Provincial Auditor is required under section 12 of the *Audit Act* to report on any Special Warrants and Treasury Board Orders issued during the year or any failure to obtain them where required. In addition, under section 91 of the *Legislative Assembly Act*, the Provincial Auditor is required to report on any transfers of money between items within the same vote in the Estimates of the Office of the Legislative Assembly.

## *LEGISLATIVE APPROVAL OF GOVERNMENT EXPENDITURES*

Shortly after presenting its budget, the government tables in the Legislature detailed Expenditure Estimates, outlining each ministry's spending proposals on a program-by-program basis. Commencing this fiscal year, the Estimates were to be prepared on the accrual basis of accounting (in previous years, the Estimates were prepared on the modified cash basis of accounting). The Standing Committee on Estimates reviews selected ministry estimates and presents a report on them to the Legislature. The estimates of those ministries that are not selected for review are deemed to be passed by the Committee and are reported as such to the Legislature. Orders for Concurrence for each of the estimates reported on by the Committee are debated in the Legislature for a maximum of three hours and then voted on.

Once the Orders for Concurrence are approved, the Legislature provides the government with legal spending authority by approving a Supply Act, which stipulates the amounts that can be spent by ministry programs as set out in the Estimates. Once the Supply Act is approved, the individual program expenditures are considered to be Voted Appropriations. The Supply Act pertaining to the fiscal year ended March 31, 2004 received royal assent on December 18, 2003.

Typically, funds are required by ministry programs before the Supply Act is passed, and the Legislature authorizes these payments by means of motions for interim supply. For the 2003/04 fiscal year, the time periods covered by the motions for interim supply and the dates that the motions were agreed to by the Legislature were as follows:

- April 1, 2003 to September 30, 2003—passed June 24, 2003; and
- October 1, 2003 to March 31, 2004—passed November 24, 2003.

As the above motions of interim supply were both passed after the first day of the period covered, expenditures incurred before the motion date needed to be covered by a Special Warrant. As discussed in the next section, a Special Warrant totalling $36.3 billion was passed on March 26, 2003. This warrant authorized expenditures between April 1, 2003 and June 24, 2003 and between October 1, 2003 and November 24, 2003.

## SPECIAL WARRANTS

If motions for interim supply cannot be approved because, for instance, the Legislature is not in session, section 7.1 of the *Treasury Board Act, 1991* allows the issue of Special Warrants authorizing the incurring of expenditures for which there is no appropriation by the Legislature or for which the appropriation is insufficient. Special Warrants are authorized by Orders-in-Council approved by the Lieutenant Governor on the recommendation of the government.

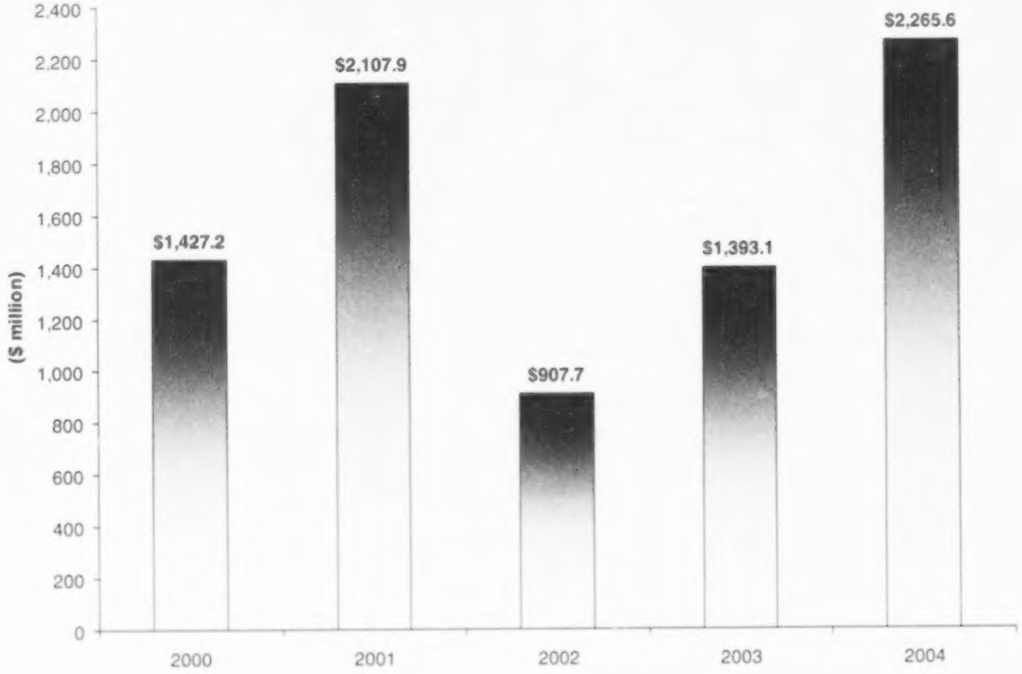
Two Special Warrants were issued for the fiscal year ended March 31, 2004. These Special Warrants, totalling $36,323,185,100, were approved and ordered by an Order-in-Council dated March 26, 2003. They authorized expenditures both for the government and for the Office of the Chief Election Officer, the Provincial Auditor, the Legislative Assembly, and Ombudsman Ontario for the fiscal year commencing on April 1, 2003.

The total expenditures approved by the *Supply Act, 2003* excluded the amounts authorized by these Special Warrants.

## TREASURY BOARD ORDERS

Section 8.1 of the *Treasury Board Act, 1991* allows the Treasury Board to make an Order authorizing expenditures to supplement the amount of any Voted Appropriation that is insufficient to carry out the purpose for which it was made. The Order can be made provided that the amount of the increase is offset by a corresponding reduction of expenditures to be incurred from other Voted Appropriations not fully spent in the fiscal year. The Order may be made at any time before the books of the government of Ontario for the fiscal year are closed.

The following chart is a summary of the total value of Treasury Board Orders issued for the past five fiscal years.



Treasury Board Orders for the 2003/04 fiscal year summarized by month of issue are as follows.

| Month of Issue | Number | Authorized ($) |
|---|---|---|
| May 2003–February 2004 | 50 | 1,007,215,133 |
| March 2004 | 20 | 1,126,638,600 |
| April 2004 | 10 | 115,618,500 |
| May 2004 | 3 | 16,133,700 |
| **Total** | **83** | **2,265,605,933** |

According to the Standing Orders of the Legislative Assembly, Treasury Board Orders are to be printed in *The Ontario Gazette*, together with explanatory information. However, we noted that the most recent Orders printed in the Gazette were those that were issued for the 2000/01 fiscal year. A detailed listing of 2003/04 Treasury Board Orders, showing the amounts authorized and expended, are included as Exhibit Three of this report.

## EXCEEDED APPROPRIATIONS

Section 12(f)(ii) of the *Audit Act* requires that we report on any cases where essential records were not maintained or the rules and procedures applied were not sufficient to ensure that expenditures were made only as authorized. Based on this year's audit of the summary financial statements and on information received from the Ministry of Finance, we noted that the actual expenses incurred and charged to the accounts for the fiscal year ended March 31, 2004 exceeded the legislative appropriations for seven Vote/Items across five ministries. These are detailed in the table below.

| Ministry | Vote/Item | Actual ($) | Appropriations ($) | Exceedance ($) |
|---|---|---|---|---|
| Attorney General | 306-3 | 44,982,132 | 21,568,300 | 23,413,832 |
| Consumer and Business Services | 802-2 | 56,075,409 | 55,634,700 | 440,709 |
| Management Board Secretariat | 1805-2 | 501,757,616 | 296,874,000 | 204,883,616 |
| Public Safety and Security | 2604-1 | 109,364,354 | 106,018,000 | 3,346,354 |
| Public Safety and Security | 2606-1 | 75,742,084 | 75,730,300 | 11,784 |
| Transportation | 2702-1 | 16,608,377 | 13,459,800 | 3,148,577 |
| Transportation | 2704-2 | 170,261,775 | 135,701,000 | 34,560,775 |
| **Total** | | **974,791,747** | **704,986,100** | **269,805,647** |

The main reasons for the three most significant exceedances are as follows:

- The Ministry of the Attorney General exceedance of $23,413,832 occurred because of the need to accrue for expenses for payment orders awarded by the Criminal Injuries Compensation Board for both the 2003/04 fiscal year and prior fiscal years, which had not yet been paid as of the fiscal year end.

- The Management Board Secretariat exceedance of $204,883,616 occurred because valuations on the pension plans and other benefits such as vacation pay and legislated severance were not finalized until after the fiscal year end.
- The Ministry of Transportation exceedance of $34,560,775 occurred because the Ministry became aware of a requirement to accrue a transfer-payment expense relating to the disposal of highway assets and because of the need to reclassify certain vehicle fleet expenses from capital assets to capital expenses.

We were informed by the Ministry of Finance that, in all these cases, by the time the ministries become aware of the required adjustments, there were insufficient funds available in the Vote and Item to cover the amounts required. We were further informed by the Ministry of Finance that, although all three ministries had underspent funds available in other Voted Appropriations to offset these exceedances, existing legislation did not permit them to utilize the funds in the underspent Voted Appropriation to offset these exceedances through a Treasury Board Order.

Since legislative authority is required for all government expenditures, traditionally exceedances of this nature have been extremely rare. As discussed earlier, this year, for the first time, Ontario's Expenditure Estimates, and thus its appropriations, were prepared on the accrual basis of accounting. Accruals add a level of complexity to the accounting process, since accruals may be required to reflect expenditures incurred and liabilities owing where no payments have yet been made. Under the government's previous appropriation control system, only actual government payments were charged to appropriations. The increased complexity and the lack of experience with the new accrual system throughout the government undoubtedly contributed to the above exceedances.

Notwithstanding the significant changes that occurred in the 2003/04 fiscal year, exceeding Voted Appropriations is a serious matter. It is imperative that the Ministry of Finance work with Management Board Secretariat and all ministries over the next year to ensure that such exceedances do not reoccur.

In this regard, we understand that the Ministry of Finance is working on proposed amendments to the *Financial Administration Act* and the *Treasury Board Act* that would allow a charge against an appropriation if there are amounts available before the Public Accounts are released. This would permit post-year-end Treasury Board Orders in future fiscal years to address exceedances like those above. The proposed amendments would also retroactively provide the required spending authorization for this year's seven exceedances.

## TRANSFERS AUTHORIZED BY THE BOARD OF INTERNAL ECONOMY

When the Board of Internal Economy authorizes the transfer of money from one item of the Estimates of the Office of the Assembly to another item within the same vote, section 91 of the *Legislative Assembly Act* requires that the Provincial Auditor make special mention of the transfer in our Annual Report.

With respect to the 2003/04 Estimates, the following transfers were made within Vote 201:

| | | | |
|---|---|---|---|
| From: | Item 3 | Legislative Services | $ 265,900 |
| To: | Item 2 | Office of the Clerk | 265,900 |
| From: | Item 5 | Administrative Services | 372,000 |
| To: | Item 6 | Sergeant at Arms and Precinct Properties | 372,000 |
| From: | Item 10 | Members' Office Support Services | 1,192,100 |
| To: | Item 8 | Caucus Support Services | 1,192,100 |

## UNCOLLECTIBLE ACCOUNTS

Under section 5 of the *Financial Administration Act,* the Lieutenant Governor in Council, on the recommendation of the Minister of Finance, may authorize an Order-in-Council to delete from the accounts any amount due to the Crown that is deemed to be uncollectible. The amounts deleted from the accounts during any fiscal year are to be reported in the Public Accounts.

In the 2003/04 fiscal year, receivables of $214 million due to the Crown from individuals and non-government organizations were written off (in 2002/03, the comparable amount was $84.8 million). Volume 2B of the 2003/04 Public Accounts summarizes these write-offs by ministry.

Under the accounting policies followed in the audited financial statements of the province, a provision for doubtful accounts is recorded against accounts receivable balances. Accordingly, most of the $214 million in write-offs had already been provided for in the audited financial statements. However, the actual deletion from the accounts required Order-in-Council approval.

The major portion of the write-offs related to the following:

- $76.9 million for uncollectible corporate taxes;
- $56.6 million for uncollectible retail sales taxes;
- $47.2 million for uncollectable fines or court fees;
- $7.2 million for uncollectible employer health taxes;
- $6.2 million for uncollectible receivables under the Ontario Disability Support Program; and
- $5.6 million for uncollectible receivables under the Student Support program.

CHAPTER SIX

# The Office of the Provincial Auditor

**MISSION STATEMENT**

Our mission is to report to the Legislative Assembly objective information and recommendations resulting from our independent audits of the government's programs and its Crown agencies and corporations. In doing so, the Office assists the Assembly in holding the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value for money in government operations.

## INDEPENDENCE

The Provincial Auditor is appointed as an officer of the Legislative Assembly by the Lieutenant Governor in Council—that is, the Lieutenant Governor appoints the Provincial Auditor on and with the advice of the Executive Council (the Cabinet). The appointment is made "on the address of the Assembly," meaning that the appointee must be approved by the Legislative Assembly. The *Audit Act* also requires that the Chair of the Standing Committee on Public Accounts—who, under the Standing Orders of the Assembly, is a member of the official opposition—be consulted before the appointment is made (for more information on the Committee, see Chapter Seven).

The Provincial Auditor and staff of the Office are independent of the government and its administration. This independence is an essential safeguard that enables the Office to fulfill its auditing and reporting responsibilities objectively and fairly.

The Board of Internal Economy—an all-party legislative committee that is independent of the government's administrative process—reviews and approves the Office's budget, which is subsequently laid before the Legislative Assembly. As required by the *Audit Act*, the Office's expenditures relating to the 2003/04 fiscal year have been audited by a firm of chartered accountants, and the audited financial statements of the Office are presented at the end of this chapter. The audited statements are submitted annually to the Board and subsequently tabled in the Legislative Assembly.

# AUDIT RESPONSIBILITIES

We audit the financial statements of the province and the accounts of many agencies of the Crown. However, most of our work relates to our audits of the administration of government programs and activities, as carried out by ministries and agencies of the Crown under government policies and legislation. Our responsibilities are set out in the *Audit Act* (reproduced in Exhibit Four).

The Office reports on its audits in an Annual Report to the Legislative Assembly. In addition, the Office may make a special report to the Assembly at any time on any matter that in the opinion of the Provincial Auditor should not be deferred until the Annual Report. We also assist and advise the Standing Committee on Public Accounts in its review of the Annual Report of the Provincial Auditor and of the Public Accounts of the province.

It should be noted that our audit activities include examining the actual administration and execution of the government's policy decisions as carried out by ministry or agency management. However, the Office does not comment on the merits of government policy, as the government is held accountable for policy matters by the Legislative Assembly, which continually monitors and challenges government policies through questions during legislative sessions and through reviews of legislation and expenditure estimates.

We are entitled to have access to all relevant information and records necessary to the performance of our duties under the *Audit Act*. Out of respect for the principle of Cabinet privilege, the Office does not seek access to the deliberations of Cabinet. However, the Office can access virtually all other information contained in Cabinet submissions that we deem necessary to fulfill our auditing and reporting responsibilities under the *Audit Act*.

## *FINANCIAL STATEMENTS OF THE PROVINCE AND VALUE FOR MONEY*

The Provincial Auditor, under subsection 9(1) of the *Audit Act*, is required to audit the accounts and records of the receipt and disbursement of public money forming part of the Consolidated Revenue Fund whether held in trust or otherwise. To this end, the Office carries out an annual attest audit to enable the Provincial Auditor to express an opinion on the province's financial statements. As well, the Office carries out cyclical value-for-money audits of government programs and activities (see the "Attest Audits" and "Value-for-money Audits" sections later in this chapter for details on these two types of audits).

## AGENCIES OF THE CROWN AND CROWN-CONTROLLED CORPORATIONS

The Provincial Auditor, under subsection 9(2) of the *Audit Act*, is required to audit those agencies of the Crown that are not audited by another auditor. Exhibit One, Part (I), lists the agencies that were audited during the 2003/04 audit year. Public accounting firms are currently contracted by the Office to audit the financial statements of a number of these agencies on the Office's behalf.

Exhibit One, Part (II) and Exhibit Two list the agencies of the Crown and Crown-controlled corporations, respectively, that were audited by public accounting firms during the 2003/04 audit year. Subsection 9(2) of the *Audit Act* requires that public accounting firms that are appointed auditors of certain agencies of the Crown perform their audits under the direction of the Provincial Auditor and to report to the Provincial Auditor. Under subsection 9(3) of the Act, public accounting firms auditing Crown-controlled corporations are required to deliver to the Provincial Auditor a copy of the audited financial statements of the corporation and a copy of their report of their findings and recommendations to management (contained in a management letter).

## ADDITIONAL RESPONSIBILITIES

Under section 16 of the *Audit Act*, the Provincial Auditor may, by resolution of the Standing Committee on Public Accounts, be required to examine and report on any matter respecting the Public Accounts.

During the period of audit activity covered by this Annual Report (October 2003 to September 2004), the Office was involved in the following assignment pursuant to section 16: On April 8, 2004, the Standing Committee on Public Accounts directed the Provincial Auditor to examine the government's Intensive Early Intervention Program for Children with Autism, including addressing three specific issues raised in the motion, and to report his findings and recommendations to the Committee.

The report on this work was submitted to the Committee in early November 2004.

Section 17 of the Act requires that the Provincial Auditor undertake special assignments requested by the Assembly, by the Standing Committee on Public Accounts (by resolution of the Committee), or by a minister of the Crown. However, these special assignments are not to take precedence over the Provincial Auditor's other duties. The Provincial Auditor can decline an assignment referred by a minister if, in the opinion of the Provincial Auditor, it conflicts with other duties.

# AUDIT ACTIVITIES

## TYPES OF AUDITS

Value-for-money, attest, and compliance audits are the three main types of audits carried out by the Office. The Office generally conducts compliance audit work as a component of its value-for-money and attest audits. In addition, inspection audits of selected grant-recipient organizations may be conducted under section 13 of the *Audit Act*. The following are brief descriptions of each of these audit types.

## Value-for-money Audits

Subclauses 12(2)(f)(iv) and (v) of the *Audit Act* require that the Provincial Auditor report on any cases observed where money was spent without due regard for economy and efficiency or where appropriate procedures were not in place to measure and report on the effectiveness of programs. This value-for-money mandate is exercised through the auditing of various ministry and Crown-agency programs and activities each year. Value-for-money audits constitute about two-thirds of the work of the Office. The results of our value-for-money audits performed between October 2003 and September 2004 are reflected in Chapter Three.

It is not part of the Office's mandate to measure, evaluate, or report on the effectiveness of programs or to develop performance measures or standards. These functions are the responsibility of ministry and/or agency management. The Office is responsible for reporting instances noted where the ministry or agency has not carried out these functions satisfactorily. Our value-for-money work deals with the administration of programs and activities by management, including major information systems.

We plan, perform, and report on our value-for-money work in accordance with the professional standards for assurance engagements, encompassing value for money and compliance, established by the Canadian Institute of Chartered Accountants. These standards require that we employ rigorous processes to maintain the quality, integrity, and value of our work for our client, the Legislative Assembly. They also require that we clearly explain the nature and extent of the assurance provided as a result of our work. Some of these processes and the degree of assurance they enable us to provide are described below.

### SELECTION OF PROGRAMS AND ACTIVITIES FOR AUDIT

Major ministry and agency programs and activities are audited at approximately five- to six-year intervals. Various factors are considered in selecting programs and activities for audit each year. These factors include: the results of previous audits and related follow-ups; the total revenues or expenditures at risk; the impact of the program or activity on the public; the inherent risk due to the complexity and diversity of operations; the significance of possible issues that may be identified by an audit; and the costs of performing the audit in relation to the perceived benefits. Possible issues are identified primarily through a preliminary survey of the program, activity, or agency.

We also consider the work completed or planned by ministry and agency internal auditors. The relevance, timeliness, and breadth of scope of their work can have a major impact on the timing, frequency, and extent of our audits. By having access to internal audit work plans, working papers, and reports and by relying, to the extent possible, on internal audit activities, the Office is able to avoid duplication of effort.

## *OBJECTIVES AND ASSURANCE LEVELS*

The objective of our value-for-money work is to meet the requirements of subclauses 12(2)(f)(iv) and (v) of the *Audit Act* by identifying and reporting significant value-for-money issues. We also include in our reports recommendations for improving controls, obtaining better value for money, and achieving legislated objectives. Management responses to our recommendations are reproduced in our reports.

The specific objective(s) for each audit or review conducted are clearly stated in the "Audit Objective(s) and Scope" section of each audit report—that is, each value-for-money section of Chapter Three.

In almost all cases, our work is planned and performed to provide an audit level of assurance. An audit level of assurance is obtained by: interviewing management and analyzing the information they provide; examining and testing systems, procedures, and transactions; confirming facts with independent sources; and, where necessary, obtaining expert assistance and advice in highly technical areas.

An audit level of assurance is the highest reasonable level of assurance the Office can provide concerning the subject matter. Absolute assurance that all significant matters have been identified is not attainable for various reasons, including: the limitations of testing as a means of gathering information from which to draw conclusions; the inherent limitations of control systems (for example, the possibility of management/staff circumventing the controls over a process or procedure); the fact that much of the evidence available is persuasive rather than conclusive in nature; and the need to exercise professional judgment.

Infrequently, for reasons such as the nature of the program or activity, limitations in the *Audit Act*, or the prohibitive cost of providing a high level of assurance, the Office will perform a review rather than an audit. A review provides a moderate level of assurance, consisting primarily of: inquiries and discussions with management; analyses of information they provide; and only limited examination and testing of systems, procedures, and transactions.

## *CRITERIA*

In accordance with professional standards for assurance engagements, work is planned and performed to provide a conclusion on the objective(s) set for the work. A conclusion is reached and observations and recommendations made by evaluating the administration of a program or activity against suitable criteria. Suitable criteria are identified at the planning stage of our audit or review by performing extensive research of sources, such as: recognized bodies of experts; applicable laws, regulations, and other authorities; other bodies or jurisdictions delivering similar programs and services; management's own policies and procedures; and applicable criteria successfully applied in other audits or reviews.

To further ensure their suitability, the criteria being applied are fully discussed with the senior management responsible for the program or activity at the planning stage of the audit or review.

### *COMMUNICATION WITH SENIOR MINISTRY OR AGENCY MANAGEMENT*

To help ensure the factual accuracy of our observations and conclusions, staff from our Office communicate with senior management throughout the audit or review. Before beginning the work, our staff meet with management to discuss the objectives and criteria and the focus of our work in general terms. During the audit or review, our staff meet with management to review progress and ensure open lines of communication. At the conclusion of on-site work, management is briefed on the preliminary results of the work. A draft report is then prepared and discussed with them. Management provides written responses to our recommendations, and these are discussed and incorporated into the final draft report. The Provincial Auditor finalizes the draft report, on which the Chapter Three section of the Annual Report will be based, with the deputy minister or agency head responsible in advance of the publication of the Annual Report.

## Attest Audits

Attest (financial statement) audits are designed to permit the expression of the auditor's opinion on a set of financial statements in accordance with generally accepted auditing standards. The opinion states whether the operations and financial position of the entity as reflected in their financial statements have been fairly presented in compliance with appropriate accounting policies, which in most cases are Canadian generally accepted accounting principles. The Office conducts attest audits of the financial statements of the province and of numerous Crown agencies on an annual basis.

With respect to reporting on attest audits of agencies, agency legislation normally stipulates that the Provincial Auditor's reporting responsibilities are to the agency's board and the minister(s) responsible. Also, we provide copies of the audit opinions and of the related agency financial statements to the deputy minister of the associated ministry, as well as to the Secretary of the Management Board of Cabinet.

In instances where matters that require improvements by management have been noted during the course of an agency attest audit, a draft management letter is prepared, discussed with senior management, and revised as necessary to reflect the results of the discussion. Following clearance of the draft management letter and the response of the agency's senior management, a final management letter is prepared and, if deemed necessary, issued to the agency head.

## Compliance Audits

Subsection 12(2) of the *Audit Act* also requires that the Provincial Auditor report observed instances where:

- accounts were not properly kept or public money was not fully accounted for;
- essential records were not maintained or the rules and procedures applied were not sufficient to safeguard and control public property or to effectively check the assessment, collection, and proper allocation of revenue or to ensure that expenditures were made only as authorized; or
- money was expended other than for the purposes for which it was appropriated.

Accordingly, as part of our value-for-money work, we:

- identify provisions in legislation and authorities that govern the programs, activities or agencies being examined or that the management of those programs, activities, or agencies is responsible for administering; and
- perform such tests and procedures as we deem necessary to obtain reasonable assurance that management has complied with legislation and authorities in all significant respects.

## Inspection Audits of Grant-recipient Organizations

The Office may, where circumstances warrant the extension of a ministry or agency audit, conduct inspection audits of grant recipients. Inspection audits are defined in the *Audit Act* as an examination of accounting records. Although value-for-money observations may arise as a by-product of inspection audits, these audits are not value-for-money oriented because only accounting records can be examined in conducting the audit.

In the past, the Office has carried out inspection audits of major recipients of grants—specifically, community colleges, universities, hospitals, and school boards. However, in recent years, the Office has deferred major inspection-audit activity pending consideration of a proposal to amend the *Audit Act* to permit the Office to access all records and information necessary to perform full-scope audits, including value-for-money audits, of grant-recipient organizations. This proposal is driven by the fact that grants to organizations such as hospitals, universities, community colleges, school boards, and thousands of smaller organizations amount to approximately 50% of total government expenditures. The main reason for pursuing amendments to the *Audit Act* is that we believe we can more effectively serve the Legislature if we have the mandate to conduct value-for-money audits of organizations receiving government grants.

Further details and background on the subject of amendments to the *Audit Act* are provided in Chapter Two, in the section entitled "Proposed Amendments to the *Audit Act*."

As well as organizations, individuals may receive payments of government funds. Such payments are made under a variety of programs, such as the Ontario Health Insurance Plan and the Ontario Disability Support program. However, such individual recipients of government funds are not, and should not be, subject to direct audit by the Provincial Auditor. When auditing programs that provide payments to individuals, we focus on the relevant ministry's procedures to ensure that only eligible recipients are paid the correct amount.

## SPECIAL ASSIGNMENTS

Under sections 16 and 17 of the *Audit Act*, the Provincial Auditor has additional reporting responsibilities relating to special assignments for the Legislative Assembly, the Standing Committee on Public Accounts, or a minister of the Crown. At the conclusion of such work, the Provincial Auditor normally reports to the authority that initiated the assignment.

## CONFIDENTIALITY OF WORKING PAPERS

In the course of our reporting activities, we prepare draft audit reports and management letters that are considered to be an integral part of our audit working papers. It should be noted that these working papers, according to section 19 of the *Audit Act*, are not required to be laid before the Assembly or any of its committees. As well, because our Office is exempt from the *Freedom of Information and Protection of Privacy Act*, our reports and audit working papers, which include all information obtained from ministries and agencies during the course of an audit, may not be accessed from our Office, thus further ensuring confidentiality.

# OFFICE ORGANIZATION AND PERSONNEL

The Office is organized into portfolio teams—a framework that attempts to align related audit entities and to foster expertise in the various areas of audit activity. The portfolios, which are loosely based on the government's own ministry organization, are each headed by a Director who oversees and is responsible for the ministry and agency audits within the assigned portfolio. Assisting the Directors and rounding out the teams are a number of audit Managers and various other audit staff (see facing chart).

### Provincial Auditor

Jim McCarter (Acting)

### Assistant Provincial Auditor

Gary Peall (Acting)

### Administration

John Sciarra, Executive Assistant
Christine Wu, Administrative Assistant
Nicole Dirickx, Bilingual Receptionist
Sohani Hossain, Administrative Clerk

### Information Technology

Shams Ali, Systems Officer
Peter Lee, Systems Officer

### Communications

Andréa Vanasse, Communications Co-ordinator
Tiina Randoja, Communications Officer
Mariana Green, Desktop Publisher/Internet Communications Assistant

### Human Resources

Annemarie Wiebe, Manager
Shanta Persaud, Financial Officer/Payroll and Employee Benefits
Elizabeth Derco, Accounts Payable/Accounting Officer

## Audit Porfolios and Staff

### Community and Social Services and Revenue

Walter Bordne, Director
Laura Bell, Manager
Denise Young, Manager

Paula Carvalho
Mark Hancock
Isabella Ho
Malgorzata Luc
Nick Stavropoulos
Dominic Wun

### Crown Agencies and Transportation

John McDowell, Director
David Lee, Manager

Walter Allan
Jasmine Chen
Orianna Rago
Dalton Roach
Mary Romano
Christine Tran

### Economic Development

Gerard Fitzmaurice, Director
Vanna Gotsis, Manager
Tony Tersigni, Manager

Danail Danailov
Maggie Dong
Natasha Dossa
Kandy Liang
Lucy Lu
Rick MacNeil
Catherine Porter
Ellen Tepelenas

### Education, Culture, and Municipal Affairs

Nick Mishchenko, Director
Michael Brennan, Manager
Fraser Rogers, Manager

Jason Colbert
Wendy Cumbo
John Tang
Emanuel Tsikritsis
Dora Ulisse
Brian Wanchuk
Gigi Yip

### Health and Management Board Secretariat

Susan Klein, Director (Acting)
John Landerkin, Manager

Tom Chatzidimos
Naomi Herberg
Lukasz Markowski
Sheila Mistry
Michael Radford
Petronela Voinicu
Oksana Wasylyk

### Justice and Regulatory

Andrew Cheung, Director
Rudolph Chiu, Manager
Vince Mazzone, Manager

Izabela Beben
Teresa Carello
Sally Chang
Kim Cho
Howard Davy
Linda Fung
Peter Galanis
Pasha Sidhu
Vivian Sin
Celia Yeung

### Public Accounts, Finance, and Information Technology

Paul Amodeo, Director
Gus Chagani, Manager
Rita Mok, Manager

Sandy Chan
Suzanna Chan
Marcia DeSouza
Jane Li
Gawah Mark
Ryan McGuire
Mark Smith

*As of September 30, 2004*

The Provincial Auditor, the Assistant Provincial Auditor, the portfolio Directors, and the Manager of Human Resources make up the Office's Senior Management Committee (SMC).

### CODE OF PROFESSIONAL CONDUCT

The Office has a Code of Professional Conduct to encourage staff to maintain high professional standards and ensure a professional work environment. The Code is intended to be a general statement of philosophy, principles, and rules regarding conduct for employees of the Office, who have a duty to conduct themselves in a professional manner and to strive to achieve the highest standards of behaviour, competence, and integrity in their work. The Code provides the reasoning for these expectations and further describes the Office's responsibilities to the Legislative Assembly, the public, and our audit entities. The Code also provides guidance on disclosure requirements and the steps to be taken to avoid conflict-of-interest situations. All employees are required to complete an annual conflict-of-interest declaration.

## ACKNOWLEDGMENTS

The Office expresses its sincere appreciation to the staff at ministries, agencies, and other entities for their co-operation in providing Office staff with the information and explanations required during the performance of the Office's audit work.

The Acting Provincial Auditor and the Acting Assistant Provincial Auditor extend their sincere appreciation to the staff of the Office for their dedication and professionalism and for a job well done.

## CANADIAN COUNCIL OF LEGISLATIVE AUDITORS

The 32nd annual meeting of the Canadian Council of Legislative Auditors (CCOLA) was held in Fredericton, New Brunswick, from August 29 to 31, 2004. This annual gathering, bringing together legislative auditors from the federal government and the provinces, provides a useful forum for sharing ideas and exchanging information important to the work of the legislative auditing community.

The Acting Provincial Auditor and the Acting Assistant Provincial Auditor attended this year's meeting.

# INTERNATIONAL VISITORS

As an acknowledged leader in value-for-money auditing, the Office periodically receives requests to meet with delegations from abroad to discuss the roles and responsibilities of the Office and to share our value-for-money and other audit experiences with them. During the audit year covered by this report, the Office received delegations of legislators/parliamentarians and auditors from China, Ethiopia, Japan, Kenya, and Vietnam.

# FINANCIAL ACCOUNTABILITY

The following highlights and financial statements outline the Office's financial results for the 2003/04 fiscal year.

## *FINANCIAL HIGHLIGHTS*

This year the Office, along with the offices of several other Officers of the Legislative Assembly, presented its financial results using the accrual basis of accounting in accordance with Canadian generally accepted accounting principles. The Office has also applied the accrual basis of accounting retroactively to enhance comparability of year-over-year results. It should be noted that our annual estimates were previously prepared and approved on a modified cash basis. On that basis, capital assets were expensed. With the adoption of accrual accounting, capital assets are, instead, recorded as assets and amortized over their estimated useful lives. The impact of this change is more fully described in note 3 to the audited financial statements, which appear at the end of this chapter.

In the 2003/04 fiscal year, we continued the historical trend of under-spending our approved budget—this year by over $400,000. Over the last 10 years, the Office has returned approximately $5.2 million in unspent appropriations, principally because the Office has faced continual challenges in hiring and retaining a sufficient pool of qualified staff in the competitive Toronto job market. This year, we were able to maintain our staffing levels closer to our 2004 approved complement of 90 staff. As a result, although our salary and wages expenses were under budget, we did spend about 8% more on salaries and wages this year than in the 2002/03 fiscal year. However, the proportion of staff this year with the desired level of qualifications and experience remained less than optimal.

Over the past year, the market value of qualified, experienced accountants and auditors has increased, partly because several high-profile corporate failures in recent years resulted in new accounting, auditing, and quality control standards. However, under the *Audit Act*, our salary levels must be comparable to the salary ranges of similar positions in the government, and these ranges are often uncompetitive with the salaries that the private sector and the broader public sector can offer for professional accountants. Therefore, we expect that our staffing challenges will only intensify.

Overall, our expenses increased by about 10% over the 2002/03. In addition to the increase in salaries and wages over last year, we faced significant increases in benefit costs and expenses relating to statutory requirements, professional services, and travel and communications, as follows:

- Benefit costs increased 29% over the 2002/03 fiscal year due to: a full-year resumption of employer pension contributions in the 2003/04 fiscal year; the severance costs incurred on the retirement of former Provincial Auditor Erik Peters; and higher costs incurred for parental leaves.
- Mr. Peters' retirement also resulted in increased statutory expenses arising from the payout of accumulated unused vacation entitlements.
- Professional-service expenses increased 21% because an increased demand for experienced auditors and specialists in the marketplace led to greater-than-anticipated costs for acquiring contracted audit services.
- Travel and communication costs rose 21% primarily because the travel requirements of our value-for-money audits in the 2004 audit year were more extensive than those undertaken in 2003.

# FINANCIAL STATEMENTS

Office of the
Provincial Auditor
of Ontario

Bureau du
vérificateur provincial
de l'Ontario

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(416) 327-2381 Fax: (416) 327-9862

## MANAGEMENT'S RESPONSIBILITY FOR FINANCIAL STATEMENTS

The accompanying financial statements of the Office of the Provincial Auditor for the year ended March 31, 2004 are the responsibility of management of the Office. Management has prepared the financial statements to comply with the *Audit Act* and with Canadian generally accepted accounting principles.

To ensure the integrity and objectivity of the financial data, management maintains a comprehensive system of internal controls including an appropriate code of conduct and an organizational structure that effectively segregates duties. These controls provide reasonable assurance that transactions are appropriately authorized, assets are adequately safeguarded, appropriations are not exceeded and financial information is reliable and accurate.

The financial statements have been audited by the firm of Allen & Miles LLP, Chartered Accountants. Their report to the Board of Internal Economy, stating the scope of their examination and opinion on the financial statements, appears on the following page.

Jim McCarter, CA
Acting Provincial Auditor
August 10, 2004

Peall

Gary R. Peall, CA
Acting Assistant Provincial Auditor
August 10, 2004

ALLEN & MILES

**ALLEN & MILES LLP, Chartered Accountants**
220 Bay Street, 9th Floor, Toronto, Canada M5J 2W4
Tel: (416) 862-8801 • Fax: (416) 862-2136
Email: toronto@allenmiles.ca • Website: www.allenmiles.ca

## AUDITORS' REPORT TO THE BOARD OF INTERNAL ECONOMY OF THE LEGISLATIVE ASSEMBLY OF ONTARIO

We have audited the statement of financial position of the Office of the Provincial Auditor as at March 31, 2004 and the statements of operations and changes in net assets and cash flows for the year then ended. These financial statements are the responsibility of the management of the Office of the Provincial Auditor. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Office of the Provincial Auditor as at March 31, 2004 and the results of its operations and the changes in its net assets and its cash flows for the year then ended in accordance with Canadian generally accepted accounting principles.

The budget information is unaudited and not considered as part of the financial statements on which we have expressed our opinion.

Allen & Miles LLP
Chartered Accountants

Toronto, Canada
August 9, 2004

AGN INTERNATIONAL
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Global
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## OFFICE OF THE PROVINCIAL AUDITOR

### Statement of Financial Position
### As at March 31, 2004

| | 2004<br>$ | 2003<br>$<br>Restated<br>(Note 3) |
|---|---|---|
| **Assets** | | |
| Current | | |
| Cash | 22,621 | 13,769 |
| Due from Consolidated Revenue Fund | 500,126 | 275,996 |
| | 522,747 | 289,765 |
| Capital Assets (Note 4) | 288,700 | 362,035 |
| **Total assets** | 811,447 | 651,800 |
| **Liabilities** | | |
| Accounts payables and accrued liabilities | 522,747 | 289,765 |
| **Net assets** | | |
| Investment in capital assets | 288,700 | 362,035 |
| **Total liabilities and net assets** | 811,447 | 651,800 |

**Commitment** (Note 6)

See accompanying notes to financial statements.

Approved by the Office of the Provincial Auditor:

Jim McCarter
Acting Provincial Auditor

Gary Peall
Acting Assistant Provincial Auditor

## OFFICE OF THE PROVINCIAL AUDITOR

### Statement of Operations and Changes in Net Assets
### For the Year Ended March 31, 2004

| | 2004 Budget $ (Note 8) | 2004 Actual $ | 2003 Actual $ Restated (Note 3) |
|---|---|---|---|
| **Revenue** | | | |
| Consolidated Revenue Fund | | | |
| Voted appropriation | 9,969,100 | 9,867,800 | 9,362,800 |
| Less: returned to the Province | — | (406,492) | (684,372) |
| Net revenue | 9,969,100 | 9,461,308 | 8,678,428 |
| **Expenses** | | | |
| Salaries and wages | 5,967,900 | 5,804,543 | 5,363,970 |
| Employee benefits (Note 5) | 1,494,300 | 1,138,786 | 880,179 |
| Office rent | 962,300 | 914,006 | 917,717 |
| Professional and other services | 711,500 | 793,965 | 653,921 |
| Amortization of capital assets | 207,300 | 221,236 | 214,250 |
| Travel and communication | 170,400 | 204,900 | 169,797 |
| Training and development | 154,000 | 116,262 | 135,289 |
| Supplies and equipment | 42,000 | 57,394 | 56,004 |
| Transfer payment: CCAF-FCVI Inc. | 50,000 | 50,000 | 50,000 |
| Statutory expenses: The *Audit Act* | 209,400 | 233,551 | 209,490 |
| Total expenses | 9,969,100 | 9,534,643 | 8,650,617 |
| **Excess (deficiency) of revenue over expenses** | — | (73,335) | 27,811 |
| **Net assets, beginning of year** | | 362,035 | 334,224 |
| **Net assets, end of year** | | 288,700 | 362,035 |

See accompanying notes to financial statements

## OFFICE OF THE PROVINCIAL AUDITOR

**Statement of Cash Flows**
**For the Year Ended March 31, 2004**

| | 2004<br>$ | 2003<br>$<br>Restated<br>(Note 3) |
|---|---|---|
| **NET INFLOW (OUTFLOW) OF CASH RELATED TO THE FOLLOWING ACTIVITIES** | | |
| **Cash flows from operating activities** | | |
| Excess (deficiency) of revenue over expenses | (73,335) | 27,811 |
| Amortization of capital assets | 221,236 | 214,250 |
| | 147,901 | 242,061 |
| **Changes in non-cash working capital** | | |
| Due from Consolidated Revenue Fund | (224,130) | (25,624) |
| Accounts payable and accrued liabilities | 232,982 | 51,855 |
| | 8,852 | 26,231 |
| **Investing activities** | | |
| Purchase of capital assets | (147,901) | (242,061) |
| **Net increase (decrease) in cash position** | 8,852 | (26,231) |
| **Cash position, beginning of year** | 13,769 | 40,000 |
| **Cash position, end of year** | 22,621 | 13,769 |

See accompanying notes to financial statements.

## OFFICE OF THE PROVINCIAL AUDITOR

**Notes to Financial Statements**
**March 31, 2004**

### 1. NATURE OF OPERATIONS

The role and responsibilities of the Provincial Auditor, who is an Officer of the Assembly, are set out in the *Audit Act*. In accordance with the provisions of the *Audit Act* and various other statutes and authorities, the Provincial Auditor conducts independent audits of government programs and of the fairness of the financial statements of the Province and numerous agencies of the Crown.

The Provincial Auditor reports annually to the Legislature on significant matters arising from this audit activity as well as on specific items required by the *Audit Act*. In addition, the Provincial Auditor reports on special assignments as may be required by the Legislature, the Standing Committee on Public Accounts, or by a Minister of the Crown. In doing so, the Provincial Auditor assists the Legislature in holding the government and its administrators accountable for the quality of the administration's stewardship of public funds and for the achievement of value-for-money in government operations.

### 2. SIGNIFICANT ACCOUNTING POLICIES

The financial statements have been prepared in accordance with Canadian generally accepted accounting principles. The significant accounting policies are as follows:

**(a) Accrual Basis**
These financial statements are accounted for on an accrual basis whereby expenses are recognized in the fiscal year that the events giving rise to the expense occur and resources are consumed.

**(b) Voted Appropriations**
The Office is funded through annual voted appropriations from the Province of Ontario. Unspent appropriations are returned to the Province's Consolidated Revenue Fund each year. As the approved appropriation was prepared on a modified cash basis, an excess or deficiency of revenue over expenses arises from the application of accrual accounting due to the capitalization and amortization of capital assets.

**(c) Capital Assets**
Capital assets are recorded at historical cost less accumulated amortization. Amortization of capital assets is recorded on the straight-line method over the estimated useful lives of the assets as follows:

| | |
|---|---|
| Computer hardware | 3 years |
| Computer software | 3 years |

The cost and accumulated amortization of fully amortized assets is removed from the accounts in the year after the asset has been fully amortized.

**(d) Pension Expense**
Pension costs included in these statements refer to employer contributions for current service of employees during the year and additional employer contributions for service relating to prior years.

## 2. SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

### (e) Net Assets

Net assets represent the accumulated cost of capital assets less accumulated amortization and disposals. They represent the value of assets that will be used to provide services in future years.

### (f) Use of Estimates

The preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

## 3. CHANGE IN BASIS OF ACCOUNTING

Effective April 1, 2003, the Office adopted Canadian generally accepted accounting principles to prepare its financial statements. This requires accounting for revenues and expenses on the accrual basis and the capitalization of assets when acquired and the amortization of the assets to income over their estimated useful lives. Previously, the modified cash basis was used, whereby revenues and expenditures were accounted for on the cash basis which was modified to allow for an additional 30 days to pay for goods and services pertaining to the fiscal year just ended, and capital assets were expensed in the year of acquisition. This change in the basis of accounting has been adopted on a retroactive basis resulting in the following changes to the March 31, 2003 financial statements.

| | 2003 | |
|---|---|---|
| | **As Previously Stated ($)** | **As Restated ($)** |
| Current assets | — | 289,765 |
| Capital assets | — | 362,035 |
| Current liabilities | — | 289,765 |
| Net assets | — | 362,035 |
| Net revenue | — | 8,678,428 |
| Expenses | 8,678,428 | 8,650,617 |
| Excess (deficiency) of revenue over expenses | (8,678,428) | 27,811 |

OFFICE OF THE PROVINCIAL AUDITOR

**Notes to Financial Statements**
**March 31, 2004**

## 4. CAPITAL ASSETS

| | 2004 | | | 2003 |
|---|---|---|---|---|
| | Cost ($) | Accumulated Amortization ($) | Net Book Value ($) | Net Book Value Restated Note 3 ($) |
| Computer hardware | 592,107 | 390,511 | 201,596 | 269,857 |
| Computer software | 226,738 | 139,634 | 87,104 | 92,178 |
| | 818,845 | 530,145 | 288,700 | 362,035 |

The Office's other major capital assets, including furniture and fixtures and leasehold improvements, were acquired many years ago and consequently were fully amortized and written off prior to the 2002/03 fiscal year.

## 5. OBLIGATION FOR EMPLOYEE FUTURE BENEFITS

Although the Office's employees are not members of the Ontario Public Service, under provisions in the *Audit Act*, the Office's employees are entitled to the same benefits as Ontario Public Service employees. The future liability for benefits earned by the Office's employees is included in the estimated liability for all provincial employees that have earned these benefits and is recognized in the Province's consolidated financial statements. These benefits are accounted for as follows:

### (a) Pension Benefits

The Office provides pension benefits for its full-time employees through participation in the Public Service Pension Fund (PSPF), which is a multi-employer defined benefit plan established by the Province of Ontario. This plan is accounted for as a defined contribution plan as the Office has insufficient information to apply defined benefit plan accounting. The pension expense represents the Office's contributions to the plan during the fiscal year. The Office's contributions related to the pension plan for the year were $493,169 (2003 – $376,676) and are included in employee benefits in the Statement of Operations and Changes in Net Assets.

### (b) Non-Pension Post-Employment Benefits

The costs of any severance and unused vacation entitlements earned by employees are recognized when payments are required for eligible employees upon termination of their employment. These costs for the year amounted to $76,857 (2003 – $257) and are included in employee benefits in the Statement of Operations and Changes in Net Assets. The cost of other non-pension post-retirement benefits is funded by the Ontario Management Board Secretariat and accordingly is not included in these financial statements.

## OFFICE OF THE PROVINCIAL AUDITOR

**Notes to Financial Statements**
**March 31, 2004**

### 6. COMMITMENT

The Office has an operating lease to rent premises for an 11-year period, which commenced November 1, 2000. The minimum rental commitment for the next five years is as follows:

| | $ |
|---|---|
| 2004–05 | 477,000 |
| 2005–06 | 484,400 |
| 2006–07 | 494,700 |
| 2007–08 | 494,700 |
| 2008–09 | 494,700 |

### 7. PUBLIC SECTOR SALARY DISCLOSURE ACT, 1996

Section 3(5) of this Act requires disclosure of Ontario public-sector employees paid an annual salary in excess of $100,000 in calendar year 2003.

| Name | Position | Salary ($) | Taxable Benefits ($) |
|---|---|---|---|
| Peters, Erik | Provincial Auditor | 290,087* | 6,662 |
| McCarter, Jim | Assistant Provincial Auditor | 157,067 | 268 |
| Amodeo, Paul | Director | 112,542 | 206 |
| Bordne, Walter | Director | 112,784 | 207 |
| Cheung, Andrew | Director | 115,246 | 207 |
| Fitzmaurice, Gerard | Director | 112,784 | 207 |
| McDowell, John | Director | 111,923 | 207 |
| Mishchenko, Nicholas | Director | 115,246 | 207 |
| Peall, Gary | Director | 115,246 | 207 |

* Retired September 30, 2003 and includes certain retirement entitlements paid during the 2003 calendar year.

### 8. RECONCILIATION TO PUBLIC ACCOUNTS VOLUME 1 BASIS OF PRESENTATION

The Office's Statement of Expenses presented in volume 1 of the Public Accounts of Ontario was prepared on a basis consistent with the accounting policies followed for the Province's financial statements, under which purchases of computers and software are expensed in the year of acquisition rather than being capitalized and amortized over their useful lives. A reconciliation of total expenses reported in volume 1 to the total expenses reported in these financial statements is as follows:

## OFFICE OF THE PROVINCIAL AUDITOR

**Notes to Financial Statements**
**March 31, 2004**

### 8. RECONCILIATION TO PUBLIC ACCOUNTS VOLUME 1 BASIS OF PRESENTATION (CONTINUED)

| | 2004 Budget* ($) | 2004 Actual ($) | 2003 Actual ($) |
|---|---|---|---|
| Total expenses per Public Accounts Volume 1 | 9,867,800 | 9,461,308 | 8,678,428 |
| Less: purchase of capital assets | (106,000) | (147,901) | (242,061) |
| Add: amortization of capital assets | 207,300 | 221,236 | 214,250 |
| Total expenses per audited financial statements | 9,969,100 | 9,534,643 | 8,650,617 |

*The Office's budget was originally submitted and approved on the modified cash basis in the amount presented in Public Accounts Volume 1.

## CHAPTER SEVEN

# The Standing Committee on Public Accounts

## APPOINTMENT AND COMPOSITION OF THE COMMITTEE

The Standing Orders of the Legislature provide for the appointment of an all-party Standing Committee on Public Accounts. The Committee is appointed for the duration of the Parliament (that is, the period from the opening of the first session immediately following a general election to the end of a government's term and the calling of another election).

The membership of the Committee reflects proportionately the representation of parties in the Legislature. All members except for the Chair are entitled to vote on motions; the Chair's vote is restricted to the breaking of a tie.

In accordance with the Standing Orders, a Standing Committee on Public Accounts was appointed on December 2, 2003, for the duration of the 38th Parliament. The membership of the Committee at September 30, 2004 was as follows:

Norm Sterling, Chair, Progressive Conservative
Julia Munro, Vice-chair, Progressive Conservative
Laurel Broten, Liberal
Jim Flaherty, Progressive Conservative
Shelley Martel, New Democrat
Bill Mauro, Liberal
Richard Patten, Liberal
Liz Sandals, Liberal
David Zimmer, Liberal

## ROLE OF THE COMMITTEE

The Committee examines, assesses, and reports to the Legislature on a number of issues, including the economy and efficiency of government operations; the effectiveness of programs in achieving their objectives; controls over assets, expenditures, and the assessment and collection of revenues; and the reliability and appropriateness of information in the Public Accounts.

In fulfilling this role, pursuant to its terms of reference in the Standing Orders of the Assembly, the Committee reviews the Provincial Auditor's Annual Report and the Public Accounts and reports to the Legislature its observations, opinions, and recommendations. Under the Standing Orders, the documents are deemed to have been permanently referred to the Committee as they become available.

As well, pursuant to sections 16 and 17 of the *Audit Act*, the Committee may request the Provincial Auditor to undertake a special assignment in an area of interest to the Committee.

### PROVINCIAL AUDITOR'S ROLE WITH THE COMMITTEE

In accordance with section 16 of the *Audit Act*, the Provincial Auditor and senior staff attend committee meetings at which the Committee reviews the Provincial Auditor's Annual Report and the Public Accounts and assist the Committee in planning its agenda.

## COMMITTEE PROCEDURES AND OPERATIONS

### GENERAL

The Committee meets weekly when the Legislature is sitting. At times, the Committee also meets during the summer and winter when the Legislature is not sitting. All meetings are open to the public with the exception of those dealing with the setting of the Committee's agenda and the preparation of committee reports. All public committee proceedings are recorded in Hansard (the official verbatim report of debates in the House, speeches, other proceedings in the Legislature, and all open-session sittings of standing and select committees).

The Committee selects matters from the Provincial Auditor's Annual Report and the Public Accounts for hearings. The Committee's researcher, along with the Provincial Auditor, briefs the Committee on these matters, and the Committee then requests senior ministry and agency officials to appear and respond to questions at the hearings. Since the Provincial Auditor's Annual Report and the Public Accounts deal with administrative and financial rather than policy matters, ministers rarely attend. Once the hearings are completed, the Committee reports its comments and recommendations to the Legislature.

The Committee also follows up on when and how those ministries and Crown agencies not selected for detailed review will address the concerns raised in the Provincial Auditor's Annual Report. This process enables each auditee to update the Committee on activities undertaken since the completion of the audit, particularly any initiatives taken to address the Provincial Auditor's recommendations.

## MEETINGS HELD

The Committee met regularly on Thursday mornings when the Legislature was sitting as well as during the winter recess primarily to consider the *2003 Annual Report* of the Provincial Auditor. The Committee was very active and met 23 times during this period to review the following items from the Provincial Auditor's *2003 Annual Report* and to write reports thereon:

- Ministry of the Attorney General—Court Services;
- Ministry of Community, Family and Children's Services—Children's Mental Health Services and Family Responsibility Office;
- Ministry of Consumer and Business Services—Policy and Consumer Protection Services Division;
- Ministry of Education—Curriculum Development and Implementation;
- Ministry of Enterprise, Opportunity and Innovation—Science and Technology;
- Ministry of the Environment—Environet; and
- the following follow-ups of recommendations contained in the *2001 Annual Report:*
    - Ministry of Finance—Gasoline, Fuel, and Tobacco Taxes; and
    - Ministry of Health and Long-Term Care—Drug Programs Activity.

## REQUEST FOR SPECIAL AUDIT

On April 8, 2004, the Standing Committee on Public Accounts directed the Provincial Auditor to examine the government's Intensive Early Intervention Program for Children with Autism, including addressing three specific issues raised in the motion, and to report his findings and recommendations to the Committee.

The report on this motion was submitted to the Committee in early November 2004.

# REPORTS OF THE COMMITTEE

## GENERAL

The Committee issues its reports to the Legislature. These reports summarize the information reviewed by the Committee during its meetings, together with comments and recommendations.

All committee reports are available through the Clerk of the Committee, thus providing the public full access to the findings and recommendations of the Committee.

After the Committee tables its report in the Legislative Assembly, it requests that ministries or agencies respond to each recommendation either within 120 days or within a time frame stipulated by the Committee.

During the period from October 2003 to September 2004, the Committee submitted the following reports to the Legislative Assembly:

- *Court Services;*
- *Children's Mental Health Services;*
- *Family Responsibility Office;*
- *Policy and Consumer Protection Services Division;* and
- *Drug Programs Activity.*

## FOLLOW-UP OF RECOMMENDATIONS MADE BY THE COMMITTEE

The Clerk of the Committee is responsible for following up on the actions taken on the Committee's recommendations by ministries or agencies. The Office of the Provincial Auditor reviews responses from ministries and agencies and, in subsequent audits, follows up on reported actions taken.

## OTHER COMMITTEE ACTIVITIES

### Canadian Council of Public Accounts Committees

The Canadian Council of Public Accounts Committees (CCPAC) consists of delegates from federal, provincial, and territorial public accounts committees from across Canada. CCPAC meets at the same time and place as the Canadian Council of Legislative Auditors (CCOLA) to provide an opportunity to discuss issues of mutual interest. The 25th annual meeting of CCPAC was held in Fredericton, New Brunswick from August 29 to 31, 2004.

The 2004 joint session with CCOLA was on the subject of "Parliamentary Oversight and Public Accounts Committees—Leadership, Capacity and Effectiveness." It explored public accounts committees' best practices internationally and in Canada and interrelationships among such committees, legislative auditors, and other stakeholders.

# Exhibits

## EXHIBIT ONE

# Agencies of the Crown

**(I) Agencies whose accounts are audited by the Provincial Auditor**

AgriCorp
Algonquin Forestry Authority
Cancer Care Ontario
Centennial Centre of Science and Technology
Chief Election Officer, *Election Finances Act*
Election Fees and Expenses, *Election Act*
Financial Services Commission of Ontario
Grain Financial Protection Board, Funds for Producers of Grain Corn, Soybeans and Canola
Investor Education Fund, Ontario Securities Commission
Legal Aid Ontario
Liquor Control Board of Ontario
Livestock Financial Protection Board, Fund for Livestock Producers
Northern Ontario Heritage Fund Corporation
North Pickering Development Corporation
Office of the Assembly
Office of the Environmental Commissioner
Office of the Information and Privacy Commissioner
Office of the Children's Lawyer
Office of the Ombudsman
Ontario Clean Water Agency (December 31)
Ontario Development Corporation
Ontario Educational Communications Authority
Ontario Electricity Financial Corporation
Ontario Energy Board
Ontario Exports Inc.
Ontario Financing Authority
Ontario Food Terminal Board
Ontario Heritage Foundation
Ontario Housing Corporation (December 31)
Ontario Immigrant Investor Corporation
Ontario Media Development Corporation
Ontario Municipal Economic Infrastructure Financing Authority
Ontario Northland Transportation Commission (December 31)
Ontario Place Corporation
Ontario Racing Commission
Ontario Realty Corporation
Ontario Securities Commission
Ontario SuperBuild Corporation
Ontario Tourism Marketing Partnership Corporation
Owen Sound Transportation Company Limited
Province of Ontario Council for the Arts
Provincial Judges Pension Fund, Provincial Judges Pension Board
Public Guardian and Trustee for the Province of Ontario
Toronto Area Transit Operating Authority
TVOntario Foundation

| (II) Agencies whose accounts are audited by another auditor under the direction of the Provincial Auditor |
|---|
| Motor Vehicle Accident Claims Fund |
| Niagara Parks Commission (October 31) |
| Ontario Mental Health Foundation |
| St. Lawrence Parks Commission |
| Workplace Safety and Insurance Board (December 31) |

**Notes:**

1. Dates in parentheses indicate fiscal periods ending on a date other than March 31.
2. Changes during the 2003/04 fiscal year:

   *Addition:*
   - Ontario Energy Board

   *Deletion:*
   - Board of Community Mental Health Clinic, Guelph

## EXHIBIT TWO

# Crown-controlled Corporations

**Corporations whose accounts are audited by an auditor other than the Provincial Auditor, with full access by the Provincial Auditor to audit reports, working papers, and other related documents**

Access Centre for Community Care in Lanark, Leeds and Grenville
Access Centre for Hastings and Prince Edward Counties
Algoma Community Care Access Centre
Art Gallery of Ontario Crown Foundation
Baycrest Hospital Crown Foundation
Board of Funeral Services
Brant Community Care Access Centre
Brock University Foundation
Carleton University Foundation
Canadian Opera Company Crown Foundation
Canadian Stage Company Crown Foundation
Chatham/Kent Community Care Access Centre
Cochrane District Community Care Access Centre
Community Care Access Centre (CCAC) – Oxford
Community Care Access Centre for Huron
Community Care Access Centre for Kenora and Rainy River Districts
Community Care Access Centre for the Eastern Counties
Community Care Access Centre Niagara
Community Care Access Centre of Halton
Community Care Access Centre of London and Middlesex
Community Care Access Centre of Peel
Community Care Access Centre of Waterloo Region
Community Care Access Centre Wellington-Dufferin
Community Care Access Centre of York Region
Community Care Access Centre Perth County
Community Care Access Centre Simcoe County
Community Care Access Centre Timiskaming
Community Care Access Centre of The District of Thunder Bay
Deposit Insurance Corporation of Ontario
Durham Access to Care
East York Access Centre for Community Services
Education Quality and Accountability Office
Elgin Community Care Access Centre
Etobicoke and York Community Care Access Centre
Foundation at Queen's University at Kingston

Exhibit Two

| Corporations whose accounts are audited by an auditor other than the Provincial Auditor, with full access by the Provincial Auditor to audit reports, working papers, and other related documents (continued) |
|---|
| Greater Toronto Transit Authority |
| Grand River Hospital Crown Foundation |
| Grey-Bruce Community Care Access Centre |
| Haldimand-Norfolk Community Care Access Centre |
| Haliburton, Northumberland and Victoria Long-Term Care Access Centre |
| Hamilton Community Care Access Centre |
| Hydro One Inc. |
| Kingston, Frontenac, Lennox and Addington Community Care Access Centre |
| Lakehead University Foundation |
| Manitoulin-Sudbury Community Care Access Centre |
| McMaster University Foundation |
| McMichael Canadian Art Collection |
| Metropolitan Toronto Convention Centre Corporation |
| Mount Sinai Hospital Crown Foundation |
| National Ballet of Canada Crown Foundation |
| Near North Community Care Access Centre |
| North York Community Care Access Centre |
| North York General Hospital Crown Foundation |
| Ontario Family Health Network |
| Ontario Foundation for the Arts |
| Ontario Lottery and Gaming Corporation |
| Ontario Mortgage Corporation |
| Ontario Municipal Employees Retirement Board |
| Ontario Pension Board |
| Ontario Power Generation Inc. |
| Ontario Trillium Foundation |
| Ottawa Community Care Access Centre |
| Ottawa Congress Centre |
| Renfrew County Community Care Access Centre |
| Royal Botanical Gardens Crown Foundation |
| Royal Ontario Museum |
| Royal Ontario Museum Crown Foundation |
| Sarnia/Lambton Community Care Access Centre |
| Scarborough Community Care Access Centre |
| Science North |
| Shaw Festival Crown Foundation |
| Smart Systems for Health Agency |
| St. Clair Parks Commission |
| St. Michael's Hospital Crown Foundation |
| Stadium Corporation of Ontario Limited |
| Stratford Festival Crown Foundation |
| Sunnybrook Hospital Crown Foundation |
| The Peterborough Community Access Centre Incorporated |
| Toronto Community Care Access Centre |
| Toronto East General Hospital Crown Foundation |

**Corporations whose accounts are audited by an auditor other than the Provincial Auditor, with full access by the Provincial Auditor to audit reports, working papers, and other related documents (continued)**

Toronto Hospital Crown Foundation
Toronto Islands Residential Community Trust Corporation
Toronto Symphony Orchestra Crown Foundation
Trent University Foundation
University of Guelph Foundation
University of Ottawa Foundation
University of Windsor Foundation
Waterfront Regeneration Trust Agency
Windsor/Essex Community Care Access Centre
Women's College and Wellesley Central Crown Foundation

**Exhibit Two**

**Notes:**
Changes during the 2003/04 fiscal year:
*Additions:*
- Etobicoke and York Community Care Access Centre

*Deletions:*
- CIAR Foundation (Canadian Institute for Advanced Research)
- Etobicoke Community Care Access Centre
- Laurentian University of Sudbury Foundation
- Nipissing University Foundation
- Ryerson Polytechnic University Foundation
- University of Toronto Foundation
- University of Waterloo Foundation
- University of Western Ontario Foundation
- Wilfrid Laurier University Foundation
- York University Foundation
- York Community Care Access Centre

## EXHIBIT THREE

# Treasury Board Orders

Under sub-section 12(2)(e) of the *Audit Act*, the Provincial Auditor is required to annually report all orders of the Management Board of Cabinet authorizing payments in excess of appropriations, stating the date of each order, the amount authorized, and the amount expended. These are outlined in the following table.

**Amounts Authorized and Expended Thereunder Year Ended March 31, 2004**

| Ministry | Date of Order | Authorized $ | Expended $ |
|---|---|---|---|
| Agriculture and Food | Feb. 26, 2004 | 61,197,000 | 61,197,000 |
| | Apr. 8, 2004 | 3,234,200 | 356,089 |
| | | 64,431,200 | 61,553,089 |
| Attorney General | Dec. 18, 2003 | 5,463,000 | 5,463,000 |
| | Jan. 28, 2004 | 16,413,400 | 16,413,400 |
| | Jan. 28, 2004 | 1,310,900 | 1,310,900 |
| | Feb. 26, 2004 | 62,202,300 | 50,837,704 |
| | Feb. 26, 2004 | 5,211,700 | 1,763,354 |
| | Feb. 26, 2004 | 2,907,000 | 1,402,847 |
| | Apr. 22, 2004 | 1,658,000 | 1,658,000 |
| | | 95,166,300 | 78,849,205 |
| Cabinet Office | Apr. 22, 2004 | 1,648,000 | 1,165,212 |
| Citizenship and Immigration | Mar. 25, 2004 | 1,519,100 | 509,756 |
| Community, Family and Children's Services | Dec. 4, 2003 | 62,355,400 | — |
| | Dec. 11, 2003 | 9,700,000 | — |
| | Dec. 11, 2003 | 14,051,800 | 6,659,800 |
| | Dec. 18, 2003 | 3,500,000 | 2,205,009 |
| | Feb. 12, 2004 | 6,800,000 | — |
| | Mar. 11, 2004 | 15,338,500 | 10,719,324 |
| | Mar. 11, 2004 | 20,743,700 | 17,309,009 |
| | | 132,489,400 | 36,893,142 |
| Consumer and Business Services | Feb. 12, 2004 | 2,620,200 | 2,620,200 |
| | Mar. 25, 2004 | 4,053,400 | 4,050,618 |
| | | 6,673,600 | 6,670,818 |

Exhibit Three

| Ministry | Date of Order | Authorized<br>$ | Expended<br>$ |
|---|---|---|---|
| Culture | Aug. 6, 2003 | 271,933 | — |
| | Aug. 28, 2003 | 1,367,200 | 1,173,443 |
| | Sept. 19, 2003 | 7,500,000 | 7,500,000 |
| | Dec. 4, 2003 | 3,500,000 | 3,500,000 |
| | Dec. 11, 2003 | 397,300 | 397,300 |
| | Feb. 26, 2004 | 5,440,700 | 5,440,700 |
| | Apr. 8, 2004 | 65,200 | 65,200 |
| | Apr. 22, 2004 | 1,020,000 | 75,952 |
| | | 19,562,333 | 18,152,595 |
| Economic Development and Trade | Apr. 22, 2004 | 350,000 | 222,071 |
| Education | Mar. 25, 2004 | 38,431,500 | 386,382 |
| Energy | June 19, 2003 | 2,500,000 | 1,872,175 |
| Environment | Mar. 11, 2004 | 3,840,400 | 2,132,223 |
| Finance | June 29, 2003 | 10,000,000 | 6,383,118 |
| | Dec. 11, 2003 | 2,507,300 | 2,507,300 |
| | Mar. 25, 2004 | 900,000 | 485,022 |
| | Mar. 30, 2004 | 161,610,600 | 160,845,887 |
| | | 175,017,900 | 170,221,327 |
| Office of Francophone Affairs | Mar. 11, 2004 | 59,000 | — |
| Health and Long-Term Care | Feb. 12, 2004 | 39,459,600 | 23,018,254 |
| | Mar. 11, 2004 | 18,347,900 | 17,436,976 |
| | Mar. 25, 2004 | 587,147,200 | 533,859,227 |
| | Mar. 30, 2004 | 118,000,000 | 118,000,000 |
| | Apr. 22, 2004 | 102,887,300 | 102,887,299 |
| | | 865,842,000 | 795,201,756 |
| Labour | Feb. 12, 2004 | 325,000 | 173,012 |
| | Mar. 25, 2004 | 1,114,000 | — |
| | | 1,439,000 | 173,012 |
| Management Board Secretariat | Aug. 18, 2003 | 6,640,000 | 6,640,000 |
| | Dec. 4, 2003 | 36,314,000 | 29,674,000 |
| | Mar. 11, 2004 | 23,978,900 | 14,693,905 |
| | | 66,932,900 | 51,007,905 |
| Municipal Affairs and Housing | Aug. 6, 2003 | 6,000,000 | 6,000,000 |
| | Feb. 26, 2004 | 42,184,100 | 28,860,454 |
| | May 6, 2004 | 7,900,000 | 6,887,182 |
| | | 56,084,100 | 41,747,636 |
| Natural Resources | June 5, 2003 | 27,400,000 | 27,400,000 |
| | June 26, 2003 | 33,170,000 | 33,170,000 |
| | Aug. 18, 2003 | 15,100,000 | 13,904,945 |
| | Mar. 11, 2004 | 6,335,100 | 4,781,403 |
| | | 82,005,100 | 79,256,348 |

| Ministry | Date of Order | Authorized<br>$ | Expended<br>$ |
|---|---|---|---|
| Northern Development and Mines | Nov. 27, 2003 | 13,200,000 | 2,942,219 |
| | Dec. 4, 2003 | 1,900,000 | 706,387 |
| | Feb. 26, 2004 | 412,600 | 412,600 |
| | Apr. 22, 2004 | 150,000 | 32,145 |
| | | 15,662,600 | 4,093,351 |
| Ontario Native Affairs Secretariat | Apr. 22, 2004 | 1,725,000 | 186,207 |
| Office of the Premier | Feb. 12, 2004 | 2,674,200 | 2,332,237 |
| Public Safety and Security | July 29, 2003 | 145,155,200 | 129,112,450 |
| | Dec. 4, 2003 | 751,400 | 751,400 |
| | Dec. 11, 2003 | 44,781,900 | 44,346,939 |
| | Dec. 18, 2003 | 43,480,000 | 43,480,000 |
| | Feb. 12, 2004 | 520,900 | 520,900 |
| | Feb. 12, 2004 | 5,891,200 | 5,891,200 |
| | Feb. 12, 2004 | 6,276,200 | 6,276,200 |
| | Feb. 26, 2004 | 733,700 | 733,700 |
| | Feb. 26, 2004 | 47,136,600 | 41,084,240 |
| | Mar. 25, 2004 | 16,526,500 | 15,519,105 |
| | Apr. 8, 2004 | 2,880,800 | 31,212 |
| | | 314,134,400 | 287,747,346 |
| Tourism and Recreation | May 20, 2003 | 83,797,200 | 77,260,312 |
| | Aug. 6, 2003 | 2,831,700 | — |
| | Feb. 12, 2004 | 490,000 | 490,000 |
| | Mar. 25, 2004 | 1,624,000 | 738,900 |
| | | 88,742,900 | 78,489,212 |
| Training, Colleges and Universities | Dec. 4, 2003 | 19,286,000 | 19,286,000 |
| | Mar. 11, 2004 | 19,761,000 | 8,763,675 |
| | | 39,047,000 | 28,049,675 |
| Transportation | Nov. 20, 2003 | 64,000,000 | 64,000,000 |
| | Dec. 11, 2003 | 30,086,500 | 30,086,500 |
| | Mar. 25, 2004 | 22,307,800 | 21,631,589 |
| | Mar. 29, 2004 | 65,000,000 | 28,118,711 |
| | May 6, 2004 | 5,556,900 | 5,273,157 |
| | May 6, 2004 | 2,676,800 | 2,676,800 |
| | | 189,628,000 | 151,786,757 |
| **TOTAL TREASURY BOARD ORDERS** | | **2,265,605,933** | **1,898,699,437** |

## EXHIBIT FOUR

# The *Audit Act*

## R.S.O. 1990, Chapter A.35

Amended by: 1999, c. 5, s. 1; 1999, c. 11.

Definitions

1. In this Act,

"agency of the Crown" means an association, authority, board, commission, corporation, council, foundation, institution, organization or other body,

(a) whose accounts the Auditor is appointed to audit by its shareholders or by its board of management, board of directors or other governing body,

(b) whose accounts are audited by the Auditor under any other Act or whose accounts the Auditor is appointed by the Lieutenant Governor in Council to audit,

(c) whose accounts are audited by an auditor, other than the Auditor, appointed by the Lieutenant Governor in Council, or

(d) the audit of the accounts of which the Auditor is required to direct or review or in respect of which the auditor's report and the working papers used in the preparation of the auditor's statement are required to be made available to the Auditor under any other Act,

but does not include one that the *Crown Agency Act* states is not affected by that Act or that any other Act states is not a Crown agency within the meaning or for the purposes of the *Crown Agency Act*; ("organisme de la Couronne")

"Assistant Auditor" means the Assistant Provincial Auditor; ("Vérificateur adjoint")

"Auditor" means the Provincial Auditor; ("Vérificateur")

"Board" means the Board of Internal Economy referred to in section 87 of the *Legislative Assembly Act*; ("Commission")

"Crown controlled corporation" means a corporation that is not an agency of the Crown and having 50 per cent or more of its issued and outstanding shares vested in Her Majesty in right of Ontario or having the appointment of a majority of its board of directors made or approved by the Lieutenant Governor in Council; ("société contrôlée par la Couronne")

"fiscal year" has the same meaning as in the *Ministry of Treasury and Economics Act*; ("exercice")

"inspection audit" means an examination of accounting records; ("vérification")

"Office of the Auditor" means the Office of the Provincial Auditor; ("Bureau du Vérificateur")

"public money" has the same meaning as in the *Financial Administration Act*. ("deniers publics") R.S.O. 1990, c. A.35, s. 1.

Office of the Auditor

**2.** The Office of the Provincial Auditor shall consist of the Auditor, the Assistant Auditor and such employees as may be required from time to time for the proper conduct of the business of the Office. R.S.O. 1990, c. A.35, s. 2.

Provincial Auditor

**3.** The Auditor shall be appointed as an officer of the Assembly by the Lieutenant Governor in Council on the address of the Assembly after consultation with the chair of the standing Public Accounts Committee of the Assembly. R.S.O. 1990, c. A.35, s. 3.

Tenure of office and removal

**4.** The Auditor may hold office until the end of the month in which he or she attains the age of sixty-five years and may be reappointed for a period not exceeding one year at a time until the end of the month in which he or she attains seventy years of age, but is removable at any time for cause by the Lieutenant Governor in Council on the address of the Assembly. R.S.O. 1990, c. A.35, s. 4.

Salary of Auditor

**5.**—(1) The Auditor shall be paid a salary within the highest range of salaries paid to deputy ministers in the Ontario civil service and is entitled to the privileges of office of a senior deputy minister. R.S.O. 1990, c. A.35, s. 5 (1); 1999, c. 5, s. 1 (1); 1999, c. 11, s. 1 (1).

Same

(2) The salary of the Auditor, within the salary range referred to in subsection (1), shall be determined and reviewed annually by the Board. 1999, c. 11, s. 1 (2).

Idem

(3) The salary of the Auditor shall be charged to and paid out of the Consolidated Revenue Fund. R.S.O. 1990, c. A.35, s. 5 (3).

Appointment of Assistant Auditor

**6.** The Assistant Auditor shall be appointed as an officer of the Assembly by the Lieutenant Governor in Council upon the recommendation of the Auditor. R.S.O. 1990, c. A.35, s. 6.

Duties of Assistant Auditor

**7.** The Assistant Auditor, under the direction of the Auditor, shall assist in the exercise of the powers and the performance of the duties of the Auditor and, in the absence or inability to act of the Auditor, shall act in the place of the Auditor. R.S.O. 1990, c. A.35, s. 7.

Qualifications

**8.** The persons appointed as Auditor and Assistant Auditor shall be persons who are licensed under the *Public Accountancy Act*. R.S.O. 1990, c. A.35, s. 8.

Exhibit Four

Audit of Consolidated Revenue Fund

**9.**—(1) The Auditor shall audit, on behalf of the Assembly and in such manner as the Auditor considers necessary, the accounts and records of the receipt and disbursement of public money forming part of the Consolidated Revenue Fund whether held in trust or otherwise. R.S.O. 1990, c. A.35, s. 9 (1).

Audit of agencies of the Crown

(2) Where the accounts and financial transactions of an agency of the Crown are not audited by another auditor, the Auditor shall perform the audit, and, despite any other Act, where the accounts and financial transactions of an agency of the Crown are audited by another auditor, the audit shall be performed under the direction of the Auditor and such other auditor shall report to the Auditor. R.S.O. 1990, c. A.35, s. 9 (2).

Audit of Crown controlled corporations

(3) Where the accounts of a Crown controlled corporation are audited other than by the Auditor, the person or persons performing the audit,

(a) shall deliver to the Auditor forthwith after completion of the audit a copy of their report of their findings and their recommendations to the management and a copy of the audited financial statements of the corporation;

(b) shall make available forthwith to the Auditor, when so requested by the Auditor, all working papers, reports, schedules and other documents in respect of the audit or in respect of any other audit of the corporation specified in the request;

(c) shall provide forthwith to the Auditor, when so requested by the Auditor, a full explanation of work performed, tests and examinations made and the results obtained, and any other information within the knowledge of such person or persons in respect of the corporation. R.S.O. 1990, c. A.35, s. 9 (3).

Additional examination and investigation

(4) Where the Auditor is of the opinion that any information, explanation or document that is provided, made available or delivered to him or her by the auditor or auditors referred to in subsection (2) or (3) is insufficient, the Auditor may conduct or cause to be conducted such additional examination and investigation of the records and operations of the agency or corporation as the Auditor considers necessary. R.S.O. 1990, c. A.35, s. 9 (4).

Information and access to records

**10.** Every ministry of the public service, every agency of the Crown and every Crown controlled corporation shall furnish the Auditor with such information regarding its powers, duties, activities, organization, financial transactions and methods of business as the Auditor from time to time requires, and the Auditor shall be given access to all books, accounts, financial records, reports, files and all other papers, things or property belonging to or in use by the ministry, agency of the Crown or Crown controlled corporation and necessary to the performance of the duties of the Auditor under this Act. R.S.O. 1990, c. A.35, s. 10.

Accommodation in ministries and Crown agencies

**11.** For the purposes of exercising powers or performing duties under this Act, the Auditor may station one or more members of the Office of the Auditor in any ministry of the public service, in any agency of the Crown and in any Crown controlled corporation and the ministry, agency or corporation shall provide such accommodation as is required for such purposes. R.S.O. 1990, c. A.35, s. 11.

Annual report

**12.**—(1) The Auditor shall report annually to the Speaker of the Assembly after each fiscal year is closed and the Public Accounts are laid before the Assembly, but not later than the 31st day of December in each year unless the Public Accounts are not laid before the Assembly by that day, and may make a special report to the Speaker at any time on any matter that in the opinion of the Auditor should not be deferred until the annual report, and the Speaker shall lay each such report before the Assembly forthwith if it is in session or, if not, not later than the tenth day of the next session. R.S.O. 1990, c. A.35, s. 12 (1).

Contents of report

(2) In the annual report in respect of each fiscal year, the Auditor shall report on,

(a) the work of the Office of the Auditor, and on whether in carrying on the work of the Office the Auditor received all the information and explanations required;

(b) the examination of accounts of receipts and disbursements of public money;

(c) the examination of the statements of Assets and Liabilities, the Consolidated Revenue Fund and Revenue and Expenditure as reported in the Public Accounts, and shall express an opinion as to whether the statements present fairly the financial position of the Province, the results of its operations and the changes in its financial position in accordance with the accounting principles stated in the Public Accounts applied on a basis consistent with that of the preceding fiscal year together with any reservations the Auditor may have;

(d) all special warrants issued to authorize payments, stating the date of each special warrant, the amount authorized and the amount expended;

(e) all orders of the Management Board of Cabinet made to authorize payments in excess of appropriations, stating the date of each order, the amount authorized and the amount expended;

(f) such matters as, in the opinion of the Auditor, should be brought to the attention of the Assembly including, without limiting the generality of the foregoing, any matter related to the audit of agencies of the Crown or Crown controlled corporations or any cases where the Auditor has observed that,

(i) accounts were not properly kept or public money was not fully accounted for,

(ii) essential records were not maintained or the rules and procedures applied were not sufficient to safeguard and control public property or to effectively check the assessment, collection and proper allocation of revenue or to ensure that expenditures were made only as authorized,

(iii) money was expended other than for the purposes for which it was appropriated,

(iv) money was expended without due regard to economy and efficiency, or

(v) where procedures could be used to measure and report on the effectiveness of programs, the procedures were not established or, in the opinion of the Auditor, the established procedures were not satisfactory. R.S.O. 1990, c. A.35, s. 12 (2).

**Exhibit Four**

Exhibit Four

**Inspection audit**

**13.**—(1) The Auditor may perform an inspection audit in respect of a payment in the form of a grant from the Consolidated Revenue Fund or an agency of the Crown and may require a recipient of such a payment to prepare and to submit to the Auditor a financial statement that sets out the details of the disposition of the payment by the recipient. R.S.O. 1990, c. A.35, s. 13 (1).

**Obstruction of Auditor**

(2) No person shall obstruct the Auditor or any member of the Office of the Auditor in the performance of an inspection audit or conceal or destroy any books, papers, documents or things relevant to the subject-matter of the inspection audit. R.S.O. 1990, c. A.35, s. 13 (2).

**Offence**

(3) Every person who knowingly contravenes subsection (2) and every director or officer of a corporation who knowingly concurs in such contravention is guilty of an offence and on conviction is liable to a fine of not more than $2,000 or to imprisonment for a term of not more than one year, or to both. R.S.O. 1990, c. A.35, s. 13 (3).

**Idem, corporation**

(4) Where a corporation is convicted of an offence under subsection (3), the maximum penalty that may be imposed upon the corporation is $25,000 and not as provided therein. R.S.O. 1990, c. A.35, s. 13 (4).

**Examination on oath**

**14.** The Auditor may examine any person on oath on any matter pertinent to any account subject to audit by the Auditor or in respect of any inspection audit by the Auditor and for the purpose of such an examination the Auditor has the powers conferred upon a commission under Part II of the *Public Inquiries Act*, which Part applies to the examination as if it were an inquiry under that Act. R.S.O. 1990, c. A.35, s. 14.

**Proviso**

**15.** Nothing in this Act shall be construed to require the Auditor,

(a) to report on any matter that, in the opinion of the Auditor, is immaterial or insignificant; or

(b) to audit or direct the audit of or report on the accounts of a body not referred to in this Act in the absence of such a requirement in any other Act in respect of the body. R.S.O. 1990, c. A.35, s. 15.

**Attendance at standing Public Accounts Committee of the Assembly**

**16.** At the request of the standing Public Accounts Committee of the Assembly, the Auditor and any member of the Office of the Auditor designated by the Auditor shall attend at the meetings of the committee in order,

(a) to assist the committee in planning the agenda for review by the committee of the Public Accounts and the annual report of the Auditor; and

(b) to assist the committee during its review of the Public Accounts and the annual report of the Auditor,

and the Auditor shall examine into and report on any matter referred to him or her in respect of the Public Accounts by a resolution of the committee. R.S.O. 1990, c. A.35, s. 16.

Special assignments

**17.** The Auditor shall perform such special assignments as may be required by the Assembly, the standing Public Accounts Committee of the Assembly, by resolution of the committee, or by a minister of the Crown in right of Ontario but such special assignments shall not take precedence over the other duties of the Auditor under this Act and the Auditor may decline an assignment by a minister of the Crown that, in the opinion of the Auditor, might conflict with the other duties of the Auditor R.S.O. 1990, c. A.35, s. 17.

Power to advise

**18.** The Auditor may advise appropriate persons employed in the public service of Ontario as to any matter that comes or that may come to the attention of the Auditor in the course of exercising the powers or performing the duties of Auditor. R.S.O. 1990, c. A.35, s. 18.

Audit working papers

**19.** Audit working papers of the Office of the Auditor shall not be laid before the Assembly or any committee of the Assembly. R.S.O. 1990, c. A.35, s. 19.

Staff

**20.** Subject to the approval of the Board and to sections 22, 25 and 26, the Auditor may employ such professional staff and other persons as the Auditor considers necessary for the efficient operation of the Office of the Auditor and may determine the salary of the Assistant Auditor and the salaries and remuneration, which shall be comparable to the salary ranges of similar positions or classifications in the public service of Ontario, and the terms and conditions of employment of the employees of the Office of the Auditor. R.S.O. 1990, c. A.35, s. 20.

Oath of office and secrecy and oath of allegiance

**21.**—(1) Every employee of the Office of the Auditor, before performing any duty as an employee of the Auditor, shall take and subscribe before the Auditor or a person designated in writing by the Auditor,

(a) the following oath of office and secrecy, in English or in French:

I, ........................................, do swear (*or* solemnly affirm) that I will faithfully discharge my duties as an employee of the Provincial Auditor and will observe and comply with the laws of Canada and Ontario and, except as I may be legally required, I will not disclose or give to any person any information or document that comes to my knowledge or possession by reason of my being an employee of the Office of the Auditor.

So help me God. (Omit this line in an affirmation)

(b) the following oath of allegiance, in English or in French:

I, ........................................................, do swear (*or* solemnly affirm) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second (*or the reigning sovereign for the time being*), her heirs and successors according to law.

So help me God. (Omit this line in an affirmation)

R.S.O. 1990, c. A.35, s. 21 (1).

**Idem**

(2) The Auditor may require any person or class of persons appointed to assist the Auditor for a limited period of time or in respect of a particular matter to take and subscribe either or both of the oaths set out in subsection (1). R.S.O. 1990, c. A.35, s. 21 (2).

**Record of oaths**

(3) A copy of each oath administered to an employee of the Office of the Auditor under subsection (1) shall be kept in the file of the employee in the Office of the Auditor. R.S.O. 1990, c. A.35, s. 21 (3).

**Cause for dismissal**

(4) The failure of an employee of the Office of the Auditor to take and subscribe or to adhere to either of the oaths required by subsection (1) may be considered as cause for dismissal. R.S.O. 1990, c. A.35, s. 21 (4).

**Benefits**

**22.**—(1) The employee benefits applicable from time to time under the *Public Service Act* to civil servants who are not within a unit of employees established for collective bargaining under any Act apply or continue to apply, as the case may be, to the Auditor, the Assistant Auditor and to the full-time permanent and probationary employees of the Office of the Auditor and the Board or any person authorized by order of the Board may exercise the powers and duties of the Civil Service Commission and the Auditor or any person authorized in writing by the Auditor may exercise the powers and duties of a deputy minister under that Act in respect of such benefits. R.S.O. 1990, c. A.35, s. 22 (1).

**Pension plan**

(2) The Auditor and the Assistant Auditor are members of the Public Service Pension Plan. R.S.O. 1990, c. A.35, s. 22 (2).

**Expert assistance**

**23.** Subject to the approval of the Board, the Auditor from time to time may appoint one or more persons having technical or special knowledge of any kind to assist the Auditor for a limited period of time or in respect of a particular matter and the money required for the purposes of this section shall be charged to and paid out of the Consolidated Revenue Fund. R.S.O. 1990, c. A.35, s. 23.

Delegation of authority

**24.** The Auditor may delegate in writing to any other member of the Office of the Auditor authority to exercise any power or perform any duty of the Auditor other than reporting to the Assembly. R.S.O. 1990, c. A.35, s. 24.

Exhibit Four

Political activities of employees of the Office of the Auditor

**25.**—(1) An employee of the Office of the Auditor shall not,

(a) be a candidate in a provincial or federal election or in an election for any municipal office including a local board of a municipality within the meaning of the *Municipal Affairs Act*;

(b) solicit funds for a provincial, federal or municipal party or candidate; or

(c) associate his or her position in the Office of the Auditor with any political activity. R.S.O. 1990, c. A.35, s. 25 (1).

Cause for dismissal

(2) Contravention of any of the provisions of subsection (1) may be considered as cause for dismissal. R.S.O. 1990, c. A.35, s. 25 (2).

Conduct and discipline

**26.**—(1) The Auditor may make orders and rules for the conduct of the internal business of the Office of the Auditor and, after a hearing, may suspend, demote or dismiss any employee of the Office of the Auditor for cause. R.S.O. 1990, c. A.35, s. 26 (1).

Hearing

(2) The *Public Service Act* and regulations thereunder that apply in relation to suspension from employment pending an investigation and in relation to a hearing by a deputy minister or his or her delegate as to cause for dismissal, other than as to notice to the Civil Service Commission, apply with necessary modifications where the Auditor is of the opinion that there may exist cause for the suspension without pay, demotion or dismissal of an employee of the Office of the Auditor, and, for the purpose, the Auditor shall be deemed to be a deputy minister. R.S.O. 1990, c. A.35, s. 26 (2).

Appeals

(3) A decision of the Auditor to demote, suspend or dismiss an employee may be appealed by the employee, within fourteen days after the decision has been communicated to the employee to the Public Service Grievance Board established under the *Public Service Act*. R.S.O. 1990, c. A.35, s. 26 (3).

Grievance Board authorized to hear appeals

(4) The Public Service Grievance Board may hear and dispose of an appeal under this section and the provisions of the regulation under the *Public Service Act* that apply in relation to a grievance for dismissal apply with necessary modifications to an appeal under this section, and, for the purpose, the Auditor shall be deemed to be a deputy minister and the decision of the Public Service Grievance Board is final and the Public Service Grievance Board shall report its decision and reasons in writing to the Auditor and to the appellant. R.S.O. 1990, c. A.35, s. 26 (4).

Proceedings privileged

**27.**—(1) No proceedings lie against the Auditor, the Assistant Auditor, any person employed in the Office of the Auditor or any person appointed to assist the Auditor for a limited period of time or in respect of a particular matter, for anything he or she may do or report or say in the course of the exercise or the intended exercise of functions under this Act, unless it is shown that he or she acted in bad faith. R.S.O. 1990, c. A.35, s. 27 (1).

Information confidential

(2) The Auditor, the Assistant Auditor and each person employed in the Office of the Auditor or appointed to assist the Auditor for a limited period of time or in respect of a particular matter shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of his or her employment or duties under this Act and shall not communicate any such matters to any person, except as may be required in connection with the administration of this Act or any proceedings under this Act or under the *Criminal Code* (Canada). R.S.O. 1990, c. A.35, s. 27 (2).

Examination of accounts of Office of the Auditor

**28.** A person or persons, not employed by the Crown or the Office of the Assembly, licensed under the *Public Accountancy Act* and appointed by the Board, shall examine the accounts relating to the disbursements of public money on behalf of the Office of the Auditor and shall report thereon to the Board and the chairman of the Board shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session. R.S.O. 1990, c. A.35, s. 28.

Estimates

**29.**—(1) The Auditor shall present annually to the Board estimates of the sums of money that will be required for the purposes of this Act. R.S.O. 1990, c. A.35, s. 29 (1).

Review by Board

(2) The Board shall review and may alter as it considers proper the estimates presented by the Auditor, and the chair of the Board shall cause the estimates as altered by the Board to be laid before the Assembly and the Assembly shall refer the estimates laid before it to a committee of the Assembly for review. R.S.O. 1990, c. A.35, s. 29 (2).

Notice

(3) Notice of meetings of the Board to review or alter the estimates presented by the Auditor shall be given to the chair and the vice-chair of the standing Public Accounts Committee of the Assembly and the chair and the vice-chair may attend at the review of the estimates by the Board. R.S.O. 1990, c. A.35, s. 29 (3).

Money

(4) The money required for the purposes of this Act, other than under sections 5 and 23, shall be paid out of the money appropriated therefor by the Legislature. R.S.O. 1990, c. A.35, s. 29 (4).

ISSN 0843-4050